

Summer 1992

# The Amicus: Summer 1992

Valparaiso University School of Law

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# THE AMICUS

VALPARAISO UNIVERSITY SCHOOL OF LAW ALUMNI MAGAZINE



Summer 1992



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## EDITORIAL BOARD

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## Cover Photo

Graduates Theo Jamison and Tom Keith celebrate VUSL Commencement, May 17, 1992.



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## SCHOOL OF LAW CALENDAR OF EVENTS

### School of Law Activities

August 21	<b>New Student Orientation</b>
August 24	<b>Instruction Begins—VUSL 114th Year</b>
September 14	<b>Final Round, The Judge Luther M. Swygert Memorial Moot Court</b>
October 1-2	<b>Ninth Annual Seegers Lectures</b> Richard Davies Parker Professor of Law, Harvard Law School
October 22-23	<b>Jurist-In-Residence</b> The Honorable Pasco M. Bowman Judge, U.S. Court of Appeals, 8th Circuit
November 12	<b>Seventh Annual Monsanto Lecture on Tort Law Reform &amp; Jurisprudence</b> Kenneth S. Abraham Class of 1962, Professor of Law, University of Virginia "A Solution for the Environmental Insurance Dilemma: National Insurance Coverage Rules"
November 13-14	<b>Board of Visitors Annual Meeting</b>

### Alumni Activities

October 10	<b>Homecoming</b> 9:00 a.m.—Meeting of Alumni Association Board 6:00 p.m.—Alumni Banquet Indian Oak Inn, Chesterton
October 23	Minneapolis Alumni Reception Minnesota Athletic Club
November TBA	<b>Alumni Reception</b> Indiana Bar Association Annual Meeting Indianapolis

## CONTINUING LEGAL EDUCATION SEMINARS

Date	Topic	Credits
August 19	Psychology of a Trial	6
August 26	Legislative Update	6
September 2	Medical Anatomy for Back Injuries	6
September 9	Workouts	6
September 16	Bankruptcy Chapter 11	6
September 23	Drafting Settlement Agreements	6
October 7	DWI-Trial	6
October 14	Economic Loss Valuation	6
October 21	Consumer Law in Indiana	6
October 28-29	Indiana Law Update	12
November 4	Lawyering in the Public Eye	6
November 11	Legal Strategies in Dealing with the Addicted Client	6
November 18	48 Things That You Need to Know to Practice Law	6

For information about alumni events  
contact Diana Wyman 219/465-7849.

For information about continuing legal education events  
contact Jan Zoladz 219/465-7810.



# LETTER FROM THE DEAN

Dear Friends,

Last January a worker climbed down under the city of Chicago into a tunnel with the electrical and phone wires that connect the Loop and make it function. He noticed a puddle of water in the tunnel, and provided a videotape of a small, but dangerous, leak that he said needed immediate attention. If his memo had been acted on promptly, the cost of repair would have been under \$10,000. Bureaucratic delays and eventual flooding on March 19 caused damage in the billions of dollars. Somehow I think there is a modern parable there. Like any parable, this one has latent within it many possible interpretations and applications.

In this letter, written just after seeing the ruins of several stores in Los Angeles destroyed in the riots that followed the acquittal of four policemen accused of beating Rodney King, I am interested in the application of the parable to the task of constructing safe and sane cities in America.

Many of the thoughts swirling around in my mind are intensely *personal*—my wife and nine-year-old daughter live not far from the ugly ruins I have visited. They were not physically harmed during the riots, but I cannot help but think that a small child is damaged by witnessing events like the videotape of Rodney King's beating or of the wholesale looting and violence that followed the acquittal of his assailants. As a father, I was grateful for King's own poignant appeal to stop the violence. Rodney King was not as eloquent as Martin Luther King, Jr., but he was reminiscent of his spirit of nonviolence, a voice we all need to be reminded of.

Other thoughts that have come to my mind have to do primarily with the responsibilities of a good *citizen*. What can we do collectively in response to the manifest breakdown of our civil order? When the Kerner Commission issued its famous report in 1968, it predicted that we were headed towards two societies, black and white, separate and unequal. At the time it sounded more like a description of South Africa than the United States. Perhaps that is why—even as my eyes were absorbing the videotaped evidence of Rodney King's beating—something within my very white soul was denying the full truth of what I was seeing. It is much easier to identify these images with South Africa or some other remote place. Then we can maintain the fantasy that things like this don't happen in America in this day and age.

But blindness to reality is not the hallmark of a good citizen. One of the sad realities of our times is that—decades after the Kerner Commission identified police brutality as one of the causes of the urban riots of the 1960s—official violence goes on apace for African-Americans. African-Americans and others of color are stopped by the police under circumstances where no white man like myself would be stopped. And they are used to being terrorized by the sort of power the four peace officers brought down on Rodney King, blow after blow.

The events in Los Angeles have the capacity to make us a stronger nation, but only if we acknowledge how much more work lies ahead in confronting apartheid, American-style. Good citizens will respond to complex reality in a complex way. Some will focus attention on the urgent need to improve the quality of education. Others will endorse reform of the police department. Others may focus criticism on social programs of the 1960s, a bit like blaming Jonas Salk for polio. Still others will urge adoption of free enterprise concepts targeted at the disadvantaged and unemployed of the core cities. A variety of voices must be heard on all of these crucial issues, but none should be heard to say that we can safely ignore the plight of our cities much longer.

Yet another set of thoughts about the King trial affect my life as a *lawyer*. Reasonable people can differ about who is directly responsible for a crime. That's why we have a jury system. For example, I myself was inclined to believe the story of the rookie cop in the King case, whose version of the event not only broke ranks with the other defendants, but also exposed him to ongoing trouble with fellow officers in the future. On the other hand, the sergeant's story that he needed to beat King because he was still twitching was for me the low point of the trial. Whether or not we agree about every piece of evidence in the trial, the result, I think, was shocking.

Still another range of thoughts about the riots go to my task as a *legal educator*. What can the curriculum of American law schools do to help cultivate a greater sense of the urgency of devising sane urban policies that will prevent urban violence from breaking out again and again?

Many of my colleagues here have deep concerns about urban policy. For example, earlier in the spring the faculty displayed extraordinary interest at a session dedicated to the communal



Dean Edward McGlynn Gaffney, Jr.

criticism of a paper on urban problems by Professor Paul Brietzke. Our faculty will be strengthened this fall by the addition of Derrick Carter '75 and Richard Gordon Hatcher '59. Mr. Carter is a highly experienced attorney in the Appellate Defender Office of the State of Michigan. The first black elected mayor of a major city, Mr. Hatcher served as mayor of Gary for twenty years. Both will add great strength and lustre to the School of Law by bringing to our community decades of reflection on the realities of life in our cities. Finally, I am pleased to report that the law school played a very significant role in helping to restore peace after an incident of racial violence on our own campus. Within hours of our knowledge of the incident, we held an open forum at which hundreds attended and shared their opposition to racism.

To return to the parable, the wall of our public safety has been breached. Early reports indicate that the leak can be repaired at some cost if we act prudently and with dispatch, and at a much greater cost if we delay excessively. The Kerner Commission wrote in 1968 that "deepening racial division is not inevitable. Choice is still possible. Our principal task is to define that choice and to press for a national resolution." Will our law schools produce young men and women prepared to formulate a domestic policy that deals constructively with the crisis of our cities? I hope so, and I will try to ensure that Valpo plays an appropriate role in this pressing task.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Ed Gaffney". The signature is fluid and cursive, with a large, stylized "G" and "A".

Dean Edward McGlynn Gaffney, Jr.



# ALUMNI ASSOCIATION ACTIVITIES

## ALUMNI RECEPTION IN CINCINNATI



*Diane Kavadias Schneider '82 with Mary Persyn and Mary Beth Lavezzorio '89 at the ISBA Reception in Cincinnati on May 9, 1992.*



*Dean Gaffney with David S. Richey, ISBA President, and David R. Yoder '74, President of the Lake County Bar Association.*



*Judge George Hoffman '51 and Mrs. Margaret Hoffman, and Judge Darlene Wanda Mears '71 and David E. Mears '70.*

## SUPPORT YOUR ALUMNI ASSOCIATION

Alumni dues are now payable for the 1992-1993 academic year. For the class of 1992, alumni dues are complimentary. For the classes of 1991, 1990, and 1989 dues are \$15. For all others, dues are \$30.

Your dues are the sole source of financial support for your Alumni Association. The alumni and student programs supported by the Alumni Association include:

- Emergency Student Loan Fund
- Regional Alumni Receptions
- *Amicus*
- VUSL Alumni Directory
- Coffee Service During Finals

Please use the postcard on the back cover to remit your dues. Thank you.

Alumni who send in their dues will receive a VUSL pen and pencil set.

## DEAN AND ALUMNI ASSOCIATION HOST RECEPTION FOR GRADUATES



*Judge and Mrs. William Conover with son and VUSL graduate, Garrett. Judge Conover is a member of the VUSL Class of 1951.*



*Graduates Cynthia Taylor and Deidre Monroe with Deidre's mom, Ella Monroe, at the Dean/Alumni Reception at Strongbow's on May 15, 1992.*



# COMMENCEMENT ADDRESS

## "RECALLED TO LIFE"

Valparaiso University of Law  
Judge Robert D. Rucker, Jr.  
May 17, 1992

Few can imagine the extreme honor, and deep humility I felt when contacted a few weeks ago by Dean Gaffney and extended an invitation to deliver today's commencement address. When I consider this distinguished assembly of lawyers-to-be, faculty, guests and friends from around the state and country, I am honored and humbled that this trial lawyer, recently turned Appeals Court Judge, has been invited to share with you this milestone of your careers. Thank you for the invitation. It is certainly an honor I will long remember. I trust something I say today will result at least in some amount of reflection, if not inspiration, as you advance from law school to law practice.

Conflict—antithesis—paradox. Our world. Indeed we can proclaim:

"It [is] the best of times, [and] the worst of times, it [is] the age of wisdom, [and] the age of foolishness, it [is] the epoch of belief, it [is] the epoch of incredulity, [this is] the season of Light . . . the season of Darkness, it [is] the spring of hope, it [is] the winter of despair, [we have] everything before us, we [have] nothing before us, we [are] all going direct to Heaven, we [are] all going direct the other way."

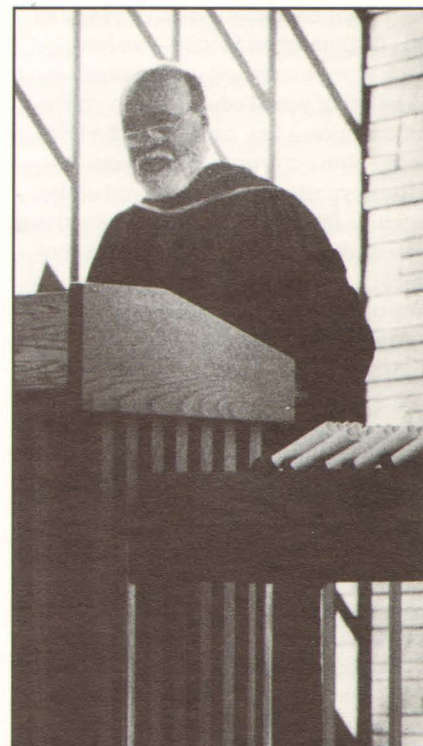
Although I have taken some editorial license with the opening paragraph of Charles Dickens' classic novel "Tale Of Two Cities," you can hear and feel the literary mechanisms of antithesis and paradox used by Dickens in his description of the social/political atmosphere of 18th century France and England.

The first chapter, from which the above quote was taken, is entitled "Recalled to Life." Today, after three years of law school you are in a sense recalled to life. You leave the world of anonymous exam numbers, moot cases, moot clients, and hypothetical

questions. You will soon enter that period when the questions will come *before* the research instead of after a semester of lectures on the subject. Your clients will no longer be moot, rather they will be real people, just like you and me, with children to feed, jobs to protect, and lives to lead.

As new lawyers you will soon become a part of that fraternity which has been described as the nation's dispute resolution team. As a part of that team you will assume great responsibilities and will confront a dizzying array of challenges. We assemble here today in 1992, a mere eight years from the twenty-first century, the year two thousand. Nonetheless, Dickens' observations of some two hundred years ago are just as relevant today as they were then. These are the best of times and the worst of times . . . the spring of hope and the winter of despair. Times of paradox and antithesis.

For example, we live in a wealthy nation. In 1991 we Americans purchased almost 2 trillion dollars worth of goods and services and enjoyed a median household income of \$30,000.00. Yet with plant closings and layoffs, homelessness has reached an all-time high and nearly 33 million of our citizens live at or below the poverty line. We Americans enjoy greater access to information than ever before in our history. Yet every year our nation's high schools graduate over 700,000 youngsters who cannot even read their diplomas. We complain of governmental gridlock and insensitivity. Yet in this representative democracy only 50% of those eligible to vote in presidential elections ever exercise that right, and the percentages are even more abysmal for many state and local elections. We live in a nation that prides itself in a judicial system which is second to none in the world, one rooted in fairness of the courts, the majesty of the law and justice for all. Yet we are confronted with the stark reality, most recently exemplified by the jury's verdict in the Rodney King trial, that an overwhelming number of African-American citizens are convinced the system breaks down and does not work when applied to them.



*The Honorable Robert D. Rucker, Jr. '77*

The paradoxes surrounding us are many, the challenges facing each of us are great. But you, as new lawyers, through your training, hopefully your outlook and eventually your experience, are uniquely equipped to provide leadership, guidance and direction to your fellow citizens—to provide shelter in a time of storm. That is a tall order. And no doubt inspires the comment: "That's not really what I had in mind when I entered law school. I intend to join a firm, become partner [or] open a private practice, etc., and live happily ever after." Of course, no one would begrudge you; you have worked tirelessly these past few years. The hours were long. The tasks were arduous. Your family, loved ones and friends were forced to suffer through your transformation from the congenial person you were, to the near tyrant you became who debated every issue and who raised the art of splitting hairs to a new level.

So no one begrudges you a good and comfortable life. But there is more, much more. As is so eloquently written in the Gospel according to Luke, chapter twelve, verse forty-eight: "For unto whomsoever much is given, from him shall much be required." By reason of



# COMMENCEMENT ADDRESS

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your legal education and the efforts of this distinguished faculty, you have been given much and indeed much is required of you. Today, I invite you to reflect upon a few aspects of the legal profession confronting attorneys. Attorneys who, like you soon shall be, practice law in a world containing the best and the worst, must react to conduct of the wise and the foolish, and represent those filled with hope as well as those filled with despair.

In our zeal to accumulate billable hours, in our quest to secure wealthy clients who can pay our fees, and in our preoccupation to improve our personal financial statements, I challenge all of us not to lose sight of the higher calling of our profession. I agree, for example, with the American lawyer and diplomat Joseph Choate. In an address to the Bench & Bar of England in the year 1905, while discussing the higher calling of the law, Choate opined:

"To be a priest, and possibly a high priest in the Temple of Justice; to serve its altar and aid in its administration; to maintain and defend the inalienable rights of life, liberty and property upon which the safety of society depends; to succor the oppressed and defend the innocent; to maintain constitutional rights against all violations whether by executive, legislative, or worse the ruthlessness of an unbridled majority, all this seems to me to furnish a field worthy of any person's ambition."

Of course, it is easy to lose sight of our greater calling as members of the legal profession. After all, there is increasing cynicism concerning lawyers both within and outside of the profession. The lawyer jokes, the shark jokes. I am sure you have heard them and if not, you certainly will soon enough. Lawyer bashing is easy and convenient. How can we forget the oft quoted phrase from Shakespeare's King Henry VI, "The first thing we do, let's kill all the lawyers" which, when taken out of context, provides further grist for the cynic's mill. Those are the worst of times.

Lawyers are seldom loved but often needed. Legal advice is regularly sought—and heeded—by governments, by corporations, by individuals, and increasingly even by community action groups. In a complex society, expert assistance must be found to cut through the maze of statistics, rules, government regulations and private laws. You are trained to perform these important tasks and your work in this connection is indispensable to the smooth function of nearly every aspect of modern life.

If there is any profession to which we can look for stabilization of a turbulent society, it is the legal profession. If there is any profession to which we can look as vanguards of positive social change, it is the legal profession. If there is any profession that can be expected to fight for the rights of the individual under law, it is the legal profession.

In essence, at the risk of sounding overly laudatory, I submit we, as lawyers, as judges, are the leaders. Cynicism notwithstanding, we are the thinkers, we are the problem solvers, we are the molders of public opinion, are we not? Shouldn't we be if we are not? In providing brilliant examples for the rest of society to follow, in setting the ethical and moral standards of our communities, in providing leadership amidst paradoxes and antitheses, do we not have a mandate to proclaim loudly to ourselves (in the paraphrased words of the late President John F. Kennedy) "if not us, who? If not now, when?"

But you need not be overwhelmed by the challenges you will face or the responsibilities you will shoulder. In the scheme of things not every issue you encounter will require the boldness of the Charge of the Light Brigade, or an examination and analysis of the Magna Carta. Nor will every problem you tackle result in changing the face of the Republic. The true catalyst for legal development is more often than not the result of common people with common problems going to common lawyers for legal advice. It is your passion coupled with a sense of what is fair and right, that will dictate how those common problems are resolved. Indeed at the heart and soul of the legal profession

and our system of justice are common people with common problems.

Take for example attorney John Flynn who represented an indigent client who was arrested at his home and charged with a serious crime. After two hours in an interrogation room, the police emerged with a typewritten confession signed by the defendant. During the interrogation the arrestee was neither told of his right to remain silent nor of his right to obtain counsel. He was convicted and the state supreme court affirmed the judgment.

Attorney Flynn, with passion coupled with a sense of what was fair and right, pursued his client's case to the United States Supreme Court. Before the Supreme Court decision, Ernesto Miranda, the indigent defendant in Flynn's case, was a common convict with the then common problem of a jail sentence based primarily on a questionable confession which was given without the knowledge that the confession could be used against him in court, without the knowledge that he had the right to remain silent, and without the knowledge that he had the right to legal counsel. However, since *Miranda v. Arizona* (1966), 384 U.S. 436, 86 S.Ct. 1602, every American citizen enjoys the right to be advised of the constitutional rights of assistance of counsel and of protection from self incrimination when taken into police custody. Today *Miranda* warnings are firmly established as a part of the national landscape.

Closer to home, the two person Fort Wayne, Indiana law firm of James Grossman and Trina Glusenkamp represented Thomas Burrell. Mr. Burrell was severely injured while helping his long-time friend Kenneth Meads install a ceiling in Meads' garage. The two lawyers filed suit on behalf of their injured client, but were unsuccessful in the trial court because of decades old Indiana premises liability law. In 1991, in the case of *Burrell v. Meads* (1991), Ind., 569 N.E.2d 637, on appeal to the Indiana Supreme Court, attorneys Grossman and Glusenkamp changed the face of this state's premises liability law and, for the first time in decades,



# COMMENCEMENT ADDRESS

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artificial barriers to recovery have been removed.

Flynn, Grossman, and Glusenkamp, practicing lawyers, representing common folks with common problems. "Common folk with Common problems," the real heart and soul of our profession.

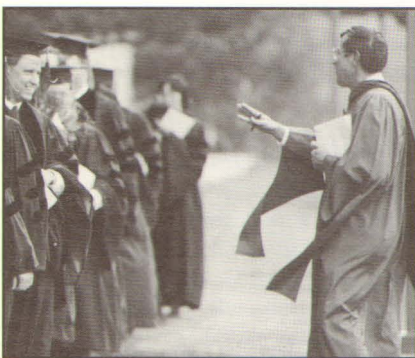
In spite of the responsibilities you will assume or the challenges you will face in the months and years ahead, above all it is most important that you avoid the temptation of becoming a prisoner of the profession. You would be well advised to lead a balanced life. As we have discussed, this profession demands much of you. Indeed, much is required. But regardless of the professional mandate, you are not required to deny yourself. You are part of a community, part of a family, most importantly, you are human. I recommend you follow the advice of the author of a beautiful piece of prose, *Desiderata*, "Go placidly amid the noise and haste, and remember what peace there may be in silence . . . Beyond a wholesome discipline, be gentle with yourself."

In addition to keeping the concepts of balance and gentleness in mind as you forge your future out of the legal profession, I urge you to *do things* outside of the legal profession. Expand your horizons—read novels, paint portraits. Oliver Wendell Holmes, one of the nation's most brilliant jurists, wrote and published hundreds of poems. In essence, avoid the temptation of making the law your profession as well as your hobby.

I urge you to enjoy your workdays and your weekends. In the twilight of your life I doubt seriously you will regret not winning one more verdict or closing one more deal. The time spent with your family, loved ones and friends will remain the most precious investments long after billable hours are tallied. I remind you that success is not measured solely by what happens at the courthouse, but also by what happens at your house. I urge you to make the choice to lead a balanced life. If you do so, chances are you will be healthier, happier, live longer, be more interesting and better able handle all that life sends your way.

In conclusion, my remarks today fail to disclose a secret formula for success in this world of best and worst, wisdom and foolishness, hope and despair. Yet, as you are recalled to life, life as a lawyer, as a leader, as a counselor, and a citizen of a new community, I hope you view the paradoxes of this world as opportunities rather than hopeless circumstances. The paradoxes challenge us to recognize society's need for leaders and assume that role. However, we must remember the heart and soul of our profession is the humble task of helping people resolve their problems. Finally, notwithstanding our social responsibilities and the day-to-day realities of our profession, we owe it to ourselves to experience life outside of the law. After all, a very wise and important person once said: "life is a trip, so we might as well enjoy the ride."

Using the paraphrased words of Dickens, "you have everything before you." Congratulations, I wish you much success.



*Dean Berner gives final instructions to Jeff Stesiak and classmates.*



*Commencement 1992 in the VU Chapel of the Resurrection.*



*Karla Franz and Carolyn Fehring.*



## A Sense of Balance

Paul H. Brietzke

*Professor Brietzke gave this talk at an Annual Meeting of the African Studies Association, to the Workshop on the State and the Legal Order.*

Many developmental and human rights disappointments in Africa have been properly attributed to failures of state and law. The "interface" between these pivotal concepts is a vague territory, where debates have long raged between advocates of a top-down approach—the state as the solution to almost all problems—and those favoring bottom-up solutions: the state is almost always the problem. Recent events in Eastern Europe, the influence exerted by neoconservatives through the World Bank, and the activism of those who would empower the poor and powerless have operated to favor bottom-up approaches in recent years. But there seems to be a growing realization that the state is both the problem and the solution in roughly equal measures. There is thus a need for a top-down and bottom-up *balance* among law and state devices, to maximize the contributions individuals, voluntary organizations, and the state make to development and human rights.

This balance would be unique to each country because it would attempt to deal with unique problems and aspirations. Such a balance should be consistently maintained, so that fads and temporary enthusiasms do not provoke wasteful lurches between extremist solutions. For example, both public enterprises and cooperatives were all the rage in Africa two decades ago. They have now fallen on analytical and political hard times, yet both are extremely useful institutions—if they are restricted to tasks they can usefully perform and if they are complemented by the more balanced and diversified institutional "mix" I will discuss later.

Constitutional, administrative, and private laws are all relevant to attaining such a mix. My constitutional discussions can be quite brief because they are published elsewhere: "The

'Seamy Underside' of Constitutional Law," 8 *Loyola L.A. Int. & Comp. L.J.* 1 (1985). In sharp contrast to other jurisprudential perspectives, I use a Machiavellian approach to African constitutional law. Machiavelli was a humanist but, like that of many African leaders, his humanism tends to dissipate under the pressure of events and the desire to survive in political office that too often amounts to a physical survival as well. African constitutional law thus often amounts to Machiavelli's *raison d'état*: an opportunism which justifies any actions taken, even if they reflect nothing more than the *raison* of a temporary ruler who calls himself the state. This is *L'état, c'est moi* of Louis XIV, Charles de Gaulle, and most African leaders.

My arguments are quite complex and they are developed in my article, but the logic of constitutional development has leaders pursuing two, partly-inconsistent goals: the strong state, conducive to an authoritarianism, and political stability culminating in liberal democracy. Too often, neither goal is achieved in Africa; rather, outcomes are those of a "double" underdevelopment, of political instability within a weak state. But some thoughtful African leaders are attempting the difficult task of simultaneously achieving political stability within a stronger state. Their quest for what amounts to an African social democracy (rather than an American liberal democracy) embodies the first sense of balance that I outline here: between strength and stability.

We can best evaluate an African country's level of constitutional development by examining its recent human rights record. In a doubly underdeveloped polity, no rights exist other than those which can be enjoyed through the state's incompetence or its inattention. Western-style political rights—free speech, meaningful political participation, etc.—indicate a tendency toward liberal democracy, while economic rights—to a job, health care, housing, etc.—reflect the aspirations (still modest in Africa) of the strong state. Such a state will try to barter the welfare measures embodied in economic rights for the public's loyalty

to the state, for legitimacy. As a constitutional prescription, I thus argue that a second balance should be struck between political and economic rights, between liberty and equality values. Setting such a balance would require a planned development and redistribution of rights that answers the question: Which liberty values should be sacrificed to attain which equality values, and vice versa, to achieve which demonstrable gains in a particular country? All too often, rights are sacrificed for no gain whatsoever, for what the Tanzanian Issa Shivji calls "the ideology of development before democracy."

In the economic sphere, the dilemma of liberty and equality is reflected in the liberty to create and keep wealth versus a wealth sharing or a distributive justice. In constitutional terms, this balance revolves around thorny issues of property rights: Who should have which property rights for which purposes, and when must an "owner" be compensated for the consequences of a government policy? In administrative law terms, resolving this dilemma amounts to getting a third balance right: between a laissez faire and an interventionist model of government, so as to avoid the worst features of both the politicization of business and the commercialization of politics. This balance is ultimately set according to the perceived self-interest of the political leaders in power, and those leaders can be educated into adopting a more enlightened self-interest.

Neoconservatives at the World Bank are trying to enforce the adoption of the laissez faire model of government, so as to promote the wealth creation mandated by a neoclassical economics. This is the Reagan/Bush agenda, masquerading as what the Ethiopian Adeno Addis calls a libertarian liberalism: creating polities which are stable enough to serve as bulwarks against a communism now in retreat, but which are not strong enough to enforce a redistribution of wealth away from Westernized elites and from multinational corporations. To the extent that these neoconservatives worry about a distributive justice, their formula is:



from each according to his (rarely her) abilities and to each according to his marginal productivity, as this productivity is measured by domestic and international markets which may be primitive or failing. The fact that an African rock star earns much more than a good teacher is therefore deemed just. For neoconservatives, all will be well if only African markets "clear": if wages decline, if returns to capital increase, and if government gets out of the economy.

The neoconservative mistrust of African (and other) politicians is constantly on display; private markets are to replace them as necessary and sufficient devices for holding everyone accountable. The traditional devices of a legal accountability through government can thus be cheerfully dispensed with, for the most part. These devices are: bills of rights, judicial review, a ministerial responsibility to parliament, a separation of powers, socialist legality, a democratic representativeness, cadres committed to representing the proletariat, pressures exerted by a saner international order, etc. Lawyers must concede that these accountability devices imported from Europe have nearly always failed in Africa, and that very few indigenous devices have sprung up. But the neoconservatives' prescription is as unworkable as the lawyers'; it would leave Africa with massive new inequalities in the distribution of wealth, a sure recipe for the political instability that the World Bank chooses to ignore.

Neither the neoconservatives' "open" economy nor the overprotected African industries that neoconservatives rail against will serve the interests of the poor and powerless. The formula of distributive justice that currently applies *de facto* in most African countries is: from each according to his abilities and to each, ostensibly according to need but, more likely, according to one's ethnic affiliations or, more likely still, according to one's political influence. Western philosophers should certainly be consulted, as an aid to changing this state of affairs. At a minimum, analyses of the rival distributive justices of Aristotle, Marx, Rawls, and Dworkin are

desirable. Even then, we worry that, like the common law, these Westerners' ideas will wither when transplanted into the tropics. For example, all of these philosophers assume an economy capable, with fairly minor adjustments, of producing an abundance which can be redistributed to eliminate poverty. This assumption does not hold in Africa, where distinctive canons of a distributive justice will emerge from the perceived histories of intergroup relations, from the preferences of particular leaders, and through the influences of an overseas education and media. Economically, the question is how to create competition and initiative under equalization policies which minimize a dependence on the state. The same question, asked in administrative law terms, is: How can we strike a fourth balance, between a public empowerment and a private empowerment?

Public empowerment is necessary because equalization policies favoring the poor and powerless require the consistent interventions of a rather strong state. But African administrative laws far too often empower public bureaucrats without requiring them to actually do anything to help the poor and powerless. Indeed, bureaucrats are frequently empowered to help themselves to the fruits of corruption, and to endless cups of tea or coffee while remaining idle. The technical requirements of drafting good administrative laws and regulations should force a precise definition of means and ends, in contrast to the often fuzzy and wishful thinking of politicians, government economists, and development administration "experts." Such definitions perform a "planning" function by enabling us to distinguish the essential—meeting the needs of the poor—from the merely desirable: expensive elite luxury and "tourism" projects, for example.

A massive overhaul of the British colonial tradition in administrative law is in order, an overhaul of the amateur's tradition of "muddling through." This overhaul should aim to avoid the familiar African cycle of simplifying administrative reforms which regularly

alternate with a proliferating complexity that sets the stage for the next round of simplifying reforms. Reforms would certainly focus on the precise nature of desirable institutions. But an overhaul should also focus on building coordinating links between institutions, links which aim to frustrate the desires of each agency and bureaucrat to maximize power and minimize responsibility. More attention should be given to the way law functions as a system—to law's integrative potential—rather than continuing to treat each institution and governmental program in isolation from everything else.

A private empowerment is essential, both in its own right and to exert a measure of control over the state bureaucracy. The balance between public and private empowerment is a particularly sensitive one: We want state bureaucrats to be kept to their tasks by individuals and private groups, but we do not want bureaucrats to be paralyzed by the special interests of the powerful—as so often happens in the U.S. To take one example, British *locus standi* rules which apply in Anglophonic Africa state that only shareholders may challenge the activities of a public enterprise in court. The only shareholder is government, so challenges are not forthcoming; this helps stop the powerful from challenging sensible government policies, but it also bars public interest litigation brought by credible trustees for the poor and powerless. A more finely-tuned rule like the one adopted in India is desirable. In any event, British rules concerning judicial review and a parliamentary supervision of administration are almost as weak in their homeland as they are in Africa.

Thoughtful reforms are in order, so that private groups can accumulate power for their *own* purposes. Sensibly-regulated markets and a sensible companies law can fulfill this function for the wealthy, but the poor and powerless need the guaranteed right to organize institutions which are more congenial to them. The grassroots organizations (non-governmental organizations or NGOs) that the poor would then create are training-grounds



for democracy. Domestic and international federations of NGOs would augment their members' expertise and their power to mobilize a discontent arising from a sense of injustice. Only through such a strong and democratic institutionalization can the main threat to grassroots organizations be overcome: a cynical trusteeship over the poor, through which ostensible populists (Huey Long or Juan Peron, for example) become demagogues and then despots. Circumventing such a danger, Chapter 77 eventually brought Havel to power in Czechoslovakia, for what we hope will be good results in the face of a fissiparous nationalism. A more violent Mau Mau was slowly coopted by the politicians surrounding Kenyatta, but it still serves as an inspiration for the new democratic forces in Kenya.

A democratic participation cannot be guaranteed or required by constitutional and administrative laws; as the poor in America can testify, there is a big difference between having your say and having an influence which is proportional to your numbers. Law can, however, give groups of the poor the organizational means to visit unpleasant consequences on a regime which neglects them, means which elites have already gained in other ways. Empowerment of the poor as well as elites would foster the emergence of what some political scientists are coming to call a civil society or a participatory culture in Africa. But many African politicians will repress private centers of power which are seen to endanger the strength and stability of the regime in power. Educational efforts are thus required to force these leaders to see the tremendous legitimization benefits these "intermediate" institutions can confer.

I come to the fifth and final sense of balance that I will bore you with: a balance among economic institutions. I devised a seven-sector model in "Economic Growth and Distributive (In)justice in Malaysia" (forthcoming). This model could, with significant adaptations, be applied in an African country. The sectors are:

1) markets (isolated transactions);

- 2) foreign-dominated corporations, some with government participation;
- 3) domestic companies, some with government participation;
- 4) public enterprises and other government organs performing regulatory functions;
- 5) individual proprietorships;
- 6) cooperatives and other NGOs; and
- 7) traditional farming, fishing, and handicrafts.

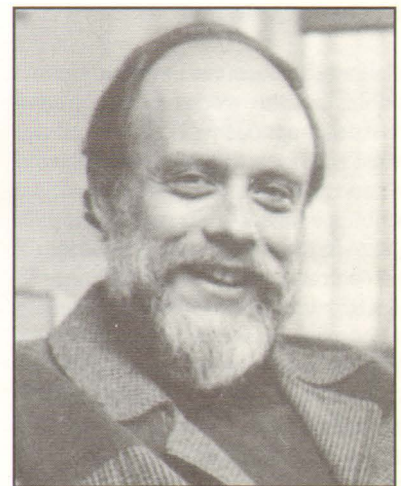
These sectors are manifestly unequal in most African countries, unequal in wealth, power, and numbers of participants. Through an economic growth with some redistribution, we would expect these sectors to become more equal in size and influence over time. This new balance would lay the foundations for development and for a civil society; a more institutionally-diversified society would reduce economic risks and increase the number of viable niches for the poor and powerless. This would reduce the political dominance of any one sector, and the rigidity of governmental policies should decline accordingly. In particular, public enterprises and governmental regulation (a.k.a. licensing to death) could no longer choke the private initiatives of persons and groups whose support is needed by government.

In legal terms, aiming at such an institutional balance would be like handicapping a horse race, a planned *re-regulation* of the economy that could be sold to the World Bank as a *de-regulation*. Such new regulations should permit the institutional adaptations that the economist Hla Myint sees as the key to economic growth with redistribution. Government would have to learn to trust sensibly-regulated markets, while standing ready to intervene effectively when markets fail or are nonexistent.

I have argued that African law and state issues should be approached through a sense of balance, through a seemingly-moderate series of Aristotelian means between the extremes that would likely lead to a

"radical" empowerment. The reader can presumably think of many other desirable balances, but I have outlined five: between political stability and state strength, between political and economic rights, between *laissez faire* and interventionist models of government, between a public and a private empowerment, and among institutional sectors in the economy. It turns out that all state and private institutions are imperfect, probably inevitable, and worth having if they are kept within their proper bounds. The precise balances and the proper bounds will vary greatly from one country to another, and they will require messy compromises which offend the austere theoretical elegance of a Marxism, a legal positivism, or a neoclassical economics.

While Western jurisprudence contains valuable insights, Africans must make their own way in the analysis of law and state. Theorists such as Bob Seidman are developing a useful research agenda for an Institutionalism, a study of structures rather than of Grand Theory which he contrasts with the preoccupations of a sociology of law and of law and economics. Jurisprudentially, this inquiry can be characterized as pragmatic, experimental or even dialectical; the goal is to learn from past mistakes and to discover the institutions necessary to make an African state more broadly responsive to public wants and needs.



Professor Paul Brietzke



# AMICUS BRIEFS

In January, Professor **Robert F. Blomquist** was appointed to an expert environmental and natural resources policy review panel of the Governor's Government Operations Committee for the State of Indiana. This non-partisan group was charged by Governor Evan Bayh to provide him with fresh perspectives on ways to improve government efficiencies, eliminate repetitious services, and dissolve inactive government units in the policy clusters of state government agencies that deal with environmental and natural resources matters. As a result of his service on this blue-ribbon panel, which culminated in a report to the Governor, **Professor Blomquist** received the Sagamore of the Wabash Award from Governor Bayh in a ceremony at the Governor's Office in Indianapolis on June 9, 1992. The Sagamore of the Wabash is the highest award the Governor can bestow on a private citizen in Indiana; it is granted for outstanding public service.

In October, **Professor Blomquist** was elected Chairperson of the Porter County District Solid Waste Management Advisory Committee by the other appointed members of the Committee. In this capacity, he has helped write Porter County's first Twenty-Year Solid Waste Management Plan—a document mandated by state law.

**Professor Blomquist** will publish two articles in the upcoming months: "The Developing Environmental Law and Policy of the People's Republic of China: An Introduction and Appraisal" (co-authored with Professor Wang Xi of Wuhan University, P.R.C.) in Volume 5 of *Georgetown International Environmental Law Review* and, "An Introduction to American Toxic Tort Law: Three Overarching Metaphors and Three Sources of Law" in Volume 26 of the *Valparaiso University Law Review*.

In December, **Professor Blomquist** was selected by the Indiana Environmental Institute, Inc. (a non-profit think tank in Indianapolis) as one of thirty members among environmentalists, government officials, and business leaders throughout the state to serve on the Indiana Environmental Forum. The

Forum will discuss environmental policy ideas and suggest proposals for statewide reform.

During the past academic year, **Professor Blomquist** also consulted with the Ohio Attorney General's Office regarding a proposal for establishing an Ohio environmental law enforcement fund to be endowed with environmental penalty assessments recovered against polluters and administered by a non-profit Ohio foundation.

In April **Professor Ivan Bodensteiner** served as a member of a panel at the Illinois National Employment Lawyers Association seminar on the Civil Rights Act of 1991. Also in April **Professor Bodensteiner** taught at a CLE program for legal services attorneys in Charleston, W. Va. on Federal Court Litigation.

In March **Professor Bodensteiner** attended the meeting of the Seventh Circuit Rules Advisory Committee. In addition, he spoke at the Notre Dame Law School on mandatory pro bono.

**Professor Paul Brietzke's** article, "Law, Legitimacy & Coercion: One View from Law & Economics," 25 *Valparaiso University Law Review* 343 (1991) has been cited in the *National Law Journal's* "Worth Reading" column. His "Urban Development and Human Development" recently appeared in 25 *Indiana Law Review* 741 (1991). He attended the annual Conference of the American Law & Economics Association on May 15-16, in New Haven.

**Professor Laura Gaston Dooley** published an article entitled "Sounds of Silence on the Civil Jury" in the Bicentennial Symposium issue of the *Valparaiso University Law Review*. The article, which assesses the success of the modern civil jury in light of the Seventh Amendment's vision of community participation in private dispute resolution, was written and presented in connection with the Law School's celebration of the Bicentennial of the Bill of Rights. The article was cited by Professor Barbara Babcock of Stanford Law School during a session of feminist procedure at the Association of American Law Schools convention in

San Antonio in January 1992. In May, **Professor Dooley** presented her ongoing work on women and juries to the Chicago Feminist Law Teachers.

**Professor Dooley** presented a paper on the allocation of cadaveric kidneys for transplant at the Law and Society Association in Philadelphia in May. The paper, which she co-authored with Professor Ian Ayres of Stanford Law School and Dr. Robert Gaston of the University of Alabama School of Medicine, is entitled, "Unequal Access to Kidney Transplantation."

**Dean Edward Gaffney** filed briefs with the Supreme Court of the United States in two cases involving religious freedom. The Court agreed to hear arguments in *ISKCON v. Lee* (No. 91-155), a case in which the New York Port Authority banned distribution of religious literature at the airport facilities it operates. The Court has not yet decided whether to hear arguments in *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah* (No. 91-948). This case involves the prohibition of animal sacrifice by a small religious community in southern Florida. On May 14, 1992, **Dean Gaffney** testified on the protection of religious freedom before the Subcommittee on Constitutional Rights and Liberties of the House Judiciary Committee.

In addition, **Dean Gaffney** spoke on the 200th Anniversary of the Bill of Rights to the Friends of the Library spring meeting at the Valparaiso Public Library. On March 26, 1992, **Dean Gaffney** presented his Faculty Inaugural Lecture on the topic of "Religious Conformity and Political Correctness—The Origins of the First Amendment in Tudor and Stuart England." This address will be published in volume 27 of *The Valparaiso University Law Review*.

At the Law School Banquet on May 23, 1992, the Dean presented several awards to faculty and staff. **Gail Peshel** was presented the Distinguished Service Award-Staff for her recent appointment as President-Elect of the National Association for Law Placement (NALP).

**Professor Charles Ehren** was presented the Distinguished Service Award-



# AMICUS BRIEFS

Faculty for his work in compiling the VUSL Self Study in preparation for the ABA accreditation visit, and **Professor Charles Gromley** was honored with the Distinguished Teacher Award.



*Professor Gromley, the 1992 VUSL Distinguished Teacher.*



*Professor Ehren is presented the Distinguished Service Award-Faculty by Dean Gaffney.*



*Gail Peshel with Dean Gaffney*

In a recently published festschrift for Professor Heinrich Scholler of the University of Munich, entitled *Rechtsentstehung und Rechtskultur*, there appeared an essay by **Professor**

**Jack A Hiller** entitled "Can Reward Operate as a Legal Sanction?"

**Professor Hiller** participated in a Third World Symposium entitled "Realizing the Rights of Women in Agricultural and Rural Development." The symposium was held at the Faculty of Law, University of Windsor, Ontario, Canada from March 12-15, 1992.

**Documents Librarian Sarah (Sally) Holterhoff** was one of the speakers for the annual "Legislative Update" program at the annual meeting of the American Association of Law Libraries in San Francisco in July. She has been reappointed to the AALL Government Relations Committee. She will be coordinating and moderating a program on legislative history for Midwest Regional Conference of Law Librarians, to be held in Columbus, Ohio, November 1-3.

**Professor Rosalie Levinson** presented the legal perspective on a panel at the Jewish-Christian Dialogue Workshop on "The Right to Die" sponsored by V.U.'s Theology Department. **Professor Levinson** also spoke at the Indiana Civil Liberties Union Spring Conference—her speech, entitled "The Demise of the Supreme Court as the People's Court," will be published in the ICLU's state-wide newsletter in June.

During the Fall semester **Professor Alfred W. Meyer** will be on sabbatical at Indiana University School of Law, Bloomington. **Professor Meyer** is the joint author of the West Blackletter Series title "Sales & Leasing of Goods" which is scheduled for late summer publication. His co-author is Professor Richard Speidel of the Northwestern University School of Law.

**Administrative Assistant to the Dean, Mary Moore**, served on the planning committee for the first Indiana state conference of the American Council on Education National Identification Program for the Advancement of Women in Higher Education Administration. The conference was held at Indiana University-Northwest in March 1992.

During the summer **Professor Seymour Moskowitz** taught at the American University Law School (Washington, D.C.). He taught Administrative Law to a group of students working in federal agencies, as well as Labor Law.

**Professor David Myers** completed his term as chair of the Agricultural Law Section of the Association of American Law Schools and was the moderator for a program he organized for the 1992 annual meeting in San Antonio. The program examined the meaning and significance of Thomas Jefferson's agrarian ideology and included as speakers Linda Malone, Professor of Law at the College of William & Mary, and Gerald Torres, Professor of Law and Associate Dean at the University of Minnesota.

**Law Librarian Mary Persyn** served as Recount Director for the Indiana Secretary of State's Office for the recount of two challenged elections in Lake and Porter Counties.

**Director of Career Services Gail Peshel** spoke at National Association for Law Placement Midwest Regional Conference in Kansas City, Missouri. **Mrs. Peshel** served as a discussion leader at the NALP Dean's Breakfast at the American Bar Association mid-year meeting in Dallas.

**Professor Richard Stith** was awarded a Fulbright grant for the 1991-92 academic year. **Professor Stith's** grant allowed him to teach Comparative Law at Zhongshan University in Guangzhou, People's Republic of China, during Spring semester 1992. During Fall semester 1991 **Professor Stith** researched in India. While in India, he lectured at the Delhi University School of Law and at the Poona University School of Law.

**Professor Michael Straubel** has been named the Legal Advisor and Parliamentarian for the Northwest Indiana World Trade Council. The Council is a non-profit corporation dedicated to encouraging international trade in Northwest Indiana.



# AMICUS BRIEFS

**Professor Ruth C. Vance** has served the Indiana Continuing Legal Education Forum as an assistant trainer in some of its mediation training programs organized under the Indiana Supreme Court's new Alternative Dispute

Resolution (ADR) rule. She serves as a member of the Lake County Bar Association's ADR Committee, which is charged with recommending training program standards and local rules regarding ADR to the Lake County judges.

**Tim J. Watts**, Public Services Librarian was elected Vice-Chair/Chair-Elect of the Reader Services Special Interest Section of the American Association of Law Libraries.

## SIXTH ANNUAL MONSANTO LECTURE: A SYMPOSIUM OF THE FIVE PREVIOUS SPEAKERS

The School of Law hosted its sixth annual Monsanto Lecture on Tort Reform and Jurisprudence this past November. Commemorating the inauguration of this lecture series at the School of Law, in a symposium style, each of the previous five speakers came back to campus to re-examine the theory of tort law as it has evolved in this country as well as explore avenues for its reform. Included in the list of scholars (with the citation to their Monsanto Lecture topics) were: **George M. Priest**, John M. Olin Professor of Law and Economics, Yale Law School, "Modern Tort Law and Its Reform," 22 Val. U.L. Rev. 1 (1987); **Robert L. Rabin**, A. Calder Mackay Professor of Law, Stanford Law School, "Tort Law in Transition: Tracing the Patterns of Sociolegal Change," 23 Val. U.L. Rev. 1 (1988); **Ernest J. Weinrib**, Professor of Law, University of Toronto, "Understanding Tort Law," 23 Val. U.L. Rev. 485 (1989); **Peter W. Huber**, Senior Fellow, Manhattan Institute for Policy Research, "On Law and Sciosophy," 24 Val. U.L. Rev. 319 (1990); and **Richard A. Epstein**, James Parker Hall Distinguished Service Professor of Law, University of Chicago, "A Clash of Two Cultures: Will the Tort System Survive Automobile Insurance Reform?," 25 Val. U.L. Rev. 173 (1991).

The Monsanto Lecture Series is endowed by a generous gift of the Monsanto Fund, the charitable arm of the Monsanto Company. The gift enables the School of Law to invite distinguished scholars and professionals to critically examine theory and evolution of tort law in the United States. Each year, the manuscript, of which the lecture is a distillation, is published by Valparaiso



*The Monsanto Speakers with Representatives of Monsanto. Front Row: Richard W. Duesenberg '53; Patricia Winchell VU '77; N. Cornell Boggs III '85. Second Row: Peter W. Huber, Richard A. Epstein, George L. Priest, Robert L. Rabin, and Ernest J. Weinrib.*

University as a monograph and republished as an article in the *Valparaiso University Law Review*.

The School of Law is grateful to alumnus, **Richard W. Duesenberg**, Senior Vice President, General Counsel and Secretary of the Monsanto Company and **John L. Mason**, President of the Monsanto Fund; both have been instru-

mental in the development of this lecture series.

This coming November, **Kenneth S. Abraham**, Professor of Law at the University of Virginia, will be the Monsanto lecturer. Teaching courses in torts, insurance and environmental law, Professor Abraham's main interests lie in the field of insurance and accident law.



*Mrs. Phyllis and Mr. Richard W. Duesenberg '53 with Dean Berner.*



*Mr. Glenn J. Tabor '58 with Professor Yonover and VU President Alan F. Harre.*

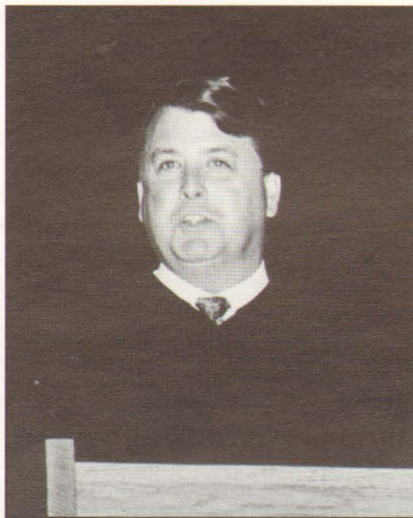


# AMICUS BRIEFS

## THE BILL OF RIGHTS YESTERDAY AND TODAY: A BICENTENNIAL CELEBRATION

To commemorate the 200th anniversary of the Bill of Rights, the School of Law, along with the University, the Valparaiso community and some local legal organizations including the Porter County Bar Association and the Northwest Indiana Chapter of the Federal Bar Association, brought together some of this country's most renowned legal scholars and attorneys to speak as well as debate the first ten amendments to the United States' Constitution in a program entitled, "The Bill of Rights Yesterday and Today: A Bicentennial Celebration."

The following is an overview of the featured topics and the scholars: **Colloquium of the First Amendment**, featuring: **Professor Douglas Laycock**, the University of Texas School of Law; **the Honorable John T. Noonan, Jr.**; Circuit Judge, U.S. Court of Appeals for the Ninth Circuit; **Dr. Os Guinness**, Williamsburg Charter Foundation; **Professor Stanley Ingber**, Drake University School of Law; **Professor John Attanasio**, Notre Dame Law School; **Robert M. O'Neil**, Thomas Jefferson Center for the Protection of Free Expression, University of Virginia; **Professor Morton J. Horwitz**, Harvard Law School; **Professor Raymond T. Diamond**, Tulane University School of Law; **Professor Wayne La Fave**, University of Illinois Law School; **Professor Tracey Maclin**, Boston University Law School. **Colloquium on Criminal Procedure**, featuring: **Professor Ronald Jay Allen**, Northwestern University School of Law; **Professors Stephan J. Schulhofer**, **Albert W. Alschuler**, **Daniel N. Shaviro**, University of Chicago School of Law; **Professor Kim A. Taylor**, Stanford School of Law. **Colloquium on Due Process, Takings and Civil Jury Trial** featuring: **Professor Douglas Laycock**, University of Texas School of Law; **Professor Frank I. Michelman**, Harvard Law School; **Professor Gregory S. Alexander**, Cornell Law School; **Professor Douglas W. Kmiec**,



*The Honorable Randall T. Shepard,  
Chief Justice, Indiana Supreme Court.*

Notre Dame Law School; **Professor Ian Ayres**, Stanford Law School; **Professor Laura Gaston Dooley**, Valparaiso University School of Law. **Colloquium on the Eighth Amendment** featuring: **Professor Walter Berns**, Georgetown University. **Colloquium on the Ninth and Tenth Amendments** featuring: **Professor Randy E. Barnett**, IIT, Chicago-Kent College of Law; **Professor JoEllen McGuigan**, Valparaiso University School of Law; **Richard G. Lugar**, United States Senator from Indiana; **Richard G. Hatcher**, formerly Mayor

## VUSL ENDOWS PUBLIC SERVICE PROGRAM FOR THIRD-YEAR STUDENTS

This spring a special endowment of \$100,000 was established to encourage third-year students to accept positions in public interest law. Through the Public Service Grant Program, third-year students who have secured a full-time, law related position with a public service employer may be awarded a grant of \$6,000. The program is aimed toward students who have accumulated substantial debt from educational loans. The recipients must commit to work for the public service employer for a minimum of two years.

Two grant awards were announced at the annual Dean and Alumni Association Reception for Graduates held at Strongbow's on Friday, May 15, 1992. The recipients are **Jane Brockmann** who

of Gary and Professor at Valparaiso University School of Law. Several other speakers were present for this fantastic celebration.

The finale of the semester-long celebration was held in the University Chapel of the Resurrection on December 15, 1991. Several faculty and community dignitaries spoke at the Service of Civic Celebration. Among the speakers were VU **President Alan F. Harre** and **Valparaiso Mayor David A. Butterfield '71**. Chief Justice **Randall T. Shepard** of the Indiana Supreme Court provided the keynote address. The evening concluded with a dinner at the University Union and address by **John J. Gilligan**, former Governor of Ohio.

To commemorate this historical celebration, the *Valparaiso University Law Review* devoted its symposium issue to an analysis of the major provisions of the Bill of Rights. Included in this issue are tributes to Justices William J. Brennan, Jr. and Thurgood Marshall along with articles from each of them. Justice Brennan's article is entitled, "Why Have A Bill of Rights?" and Justice Marshall's "Commentary: Reflections on the Bicentennial of the United States Constitution." This entire issue was mentioned in the "Worth Reading" column of the *National Law Journal*, June 29, 1992.



*Jane Brockmann '92 receives the  
Public Service Award Grant from  
Dean Gaffney.*

will work for the National Center for the Medically Dependent and Disabled, Inc. in Indianapolis and **Jill Fogg** who has secured a position with Legal Services of Eastern Michigan. The Public Service Grant Program coupled with the pro bono service requirement solidifies Valparaiso's commitment of public interest law.



# AMICUS BRIEFS

## MIDWEST ENVIRONMENTAL LAW CAUCUS SPONSORS SPEAKERS SERIES

In conjunction with "Law Week, 1992," and national "Earth Week," the Midwest Environmental Law Caucus, (MELC) sponsored a series of speakers recognized in the environmental area. Such speakers included: **Cheryl Newton**, from the Environmental Protection Agency, discussing "Better Business Through Lighting and Efficiency;" **Peter Sorenson**, an attorney from Portland, Oregon working in public interest environmental law; and **Congressman Peter Visclosky**, discussing the Indiana Dunes expansion and environmental issues currently before Congress.

During "Earth Week," MELC sponsored programs on environmental consumerism and open sessions on community awareness teaching children about environmentalism. Videos on the recent, "UNSAID" movement were shown on a regular basis.



*Kevin Anderson of MELC.*

During the spring semester, MELC brought their concern for the environment beyond the law school community. MELC members agreed to teach children at the local Y.M.C.A. games as well as share stories with them in an effort to promote environmental edu-

cation. This program provided law students with the chance to escape "the realm of the reasonably prudent person into the fantastical kingdom of child play," while sharing their knowledge and appreciation of the earth with the children. Law students offered a program of storytelling, influenced by Native American tales, along with activities which accompanied a lesson to the particular stories.

The law school community appreciates MELC's effort in getting an active recycling committee on campus; this group implemented an office recycling program at the School of Law. Getting the program going was certainly worth the effort; 3,750 pounds worth of good resources that would have been wasted, have been recycled.

In an effort to assist the continuing project of landscaping Wesemann Hall, MELC and Phi Delta Phi planted several trees on the Greenwich Street side of the building.

## MOOT COURT SOCIETY ESTABLISHED AT VUSL

The newly formed Moot Court Society is in charge of organizing and administering all inter-school moot court activities as well as the first year oral arguments and the Judge Luther M. Swygert Memorial Moot Court Competition. This year's executive board drafted the by-laws and guided the Society through its first year of successful operation. In addition to the Swygert Moot Court, the Society oversees the National Moot Court, the Environmental Moot Court, the Philip C. Jessup International Moot Court, and the Giles Sutherland Rich Moot Court competitions. Students are invited to participate on the Executive Board after participation in the intraschool Candidacy Advocacy Competition.



*Founding Executive Board (L to R) J. Michael Swart '92; Jeffrey W. Clymer '92; Teri L. Meade '92; Michael C. Moellering '92; Garrett V. Conover '92; and William J. Beggs '92.*



## THIRD ANNUAL SWYGERT MOOT COURT COMPETITION HELD

Second-year students **Carl J. Brizzi** and **Ross Roloff** were the winners of the 1992 Judge Luther M. Swygert Memorial Moot Court Competition. The judges in this year's competition, which honors the late Judge Luther M. Swygert, who served for many years on the United States Court of Appeals for the Seventh Circuit, were the **Honorable Richard Cudahy** of the Seventh Circuit, the **Honorable Allen Sharp**, Chief Judge for the United States District Court for the Northern District of Indiana, and the **Honorable V. Sue Shields** from the Indiana Court of Appeals.

The two issues presented for argument were: 1. does a city ordinance which permits the solicitation of funds in a public airport by a licensed organization but which prohibits three homeless citizens from carrying signs and asking for financial assistance violate their First Amendment guarantee of Freedom of expression? and 2. Does the requiring of three homeless citizens to submit to a nonconsensual blood test for AIDS following an arrest violate their Fourth



*The 1992 Swygert Moot Court Judges and Final Round Participants—Judge Sharp; Judge Shields; Anne Glaser '93; Carl Brizzi '93; Jacqueline Gipson '93; Ross Roloff '93; Judge Cudahy; and Dean Gaffney.*

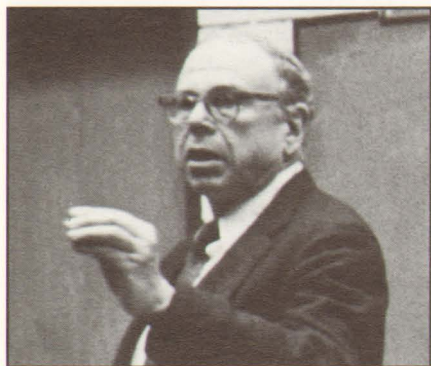
Amendment rights to be free from unreasonable search and seizure?

The final round of the Fourth Annual Swygert Competition is scheduled for Monday, September 14, 1992 with Judge

Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit, Justice Richard Given of the Indiana Supreme Court, and Judge Betty Barteau of the Indiana Court of Appeals serving as judges.

## VUSL CELEBRATES LAW WEEK 1992

Joining with law schools around the country to celebrate the study of law, VUSL celebrated "Law Week, 1992," with both academic and social activities throughout the first week of April. Law Week began with the Final Round of



*Northwestern Professor Victor Rosenblum.*



*Krista Hoeksema receives the American Corporate Counsel Award from David Hollenbeck '74.*

the third annual Judge Luther M. Swygert Memorial Moot Court Competition. Several speakers participated in Law Week activities, including Professor Victor G. Rosenblum of Northwestern Law School. Sponsored by *Jus Vitae*, Professor Rosenblum spoke on the



*Dean Gaffney with the 1992 Corpus Juris Secundum Award recipients (L to R) Jeff Stesiak, Amy Mader and Mike Moellering.*

topic of "Strategies & Doctrines in the Litigation of Life Issues." Professor Rosenblum is very familiar to VUSL as past president of the Association of American Law Schools and as the keynote speaker for the dedication of Wesemann Hall in April of 1987.



# AMICUS BRIEFS

Professor Rosenblum will begin service on the VUSL Board of Visitors in the autumn of 1992.

The annual Law Week Luncheon program recognized the law student scholars who achieved academic success as well as served their academic community. Specific award recipients included: **Kristin E. Hoeksema** and **Christine A. Sulewski**, for the "Law Alumni & the American Corporate Counsel Association Award;" **Marilyn R. Holscher** and **Mary LaSata**, for the

"Vaughan Award;" **Thomas L. Brooks, Jr.** and **James Boyle**, for the "Ten Commandments for Lawyers Award;" **Michael Annable** and **J. Michael Stewart**, for the "ABA Section of Urban, State & Local Government Law Award;" **Thomas A. Keith** and **Amy Lawrence Mader**, for the "Indiana State Bar Foundation Scholarship;" **Elizabeth M. Bezak**, for the "Indiana Lawyers Auxiliary Scholarship;" and **Amy Lawrence Mader**, **Michael Moellering**, and **Jeffrey J. Stesiak**, for the "Corpus Juris Secundum Award," selected by the

faculty as those students who have made a significant contribution to the School of Law, Alumnus, and Lake County Prosecutor, **Jon DeGuilio**, (Class of 1981) was the featured guest speaker.

As tradition has it, on Thursday night, the Student Bar Association sponsored the annual Faculty Roast with Associate Dean Bruce Berner, as the "roast of honor." Law Week concluded with the annual Barristers Ball. The 1992-1993 SBA officers and board took their new posts at the end of Law Week.

## LAW STUDENTS SERVE AS COURT APPOINTED SPECIAL ADVOCATES

With a strong interest in community service, several law students volunteer their time to the Porter County Youth Service Bureau as a Court Appointed Special Advocate (CASA). Supervised by a professional staff director, CASAs are appointed as Officers of the Court to advocate for the best interests of a child who is the subject of judicial action under the Indiana Juvenile Code as abused and/or neglected. Since the Statute does not require CASAs to be attorneys, the program provides law students with the opportunity to further enhance their practical legal training and to offer some pro bono assistance to the Valparaiso community.

Trained as community volunteers, the time involved is extensive, but the learning opportunity is invaluable. Serving as a CASA, law students represent the interest of the child independent of the involved persons and agencies. In order to assess the best interest of the child, CASAs do independent assessments of the child's situation, including interviewing all the involved persons and reviewing all legal and social service records. Where the needs of the child need to be represented, CASAs must appear; this includes all court hearings, conferences and meetings, with recommendations to the Court. While the amount of time spent with each case varies, students typically put in 12 hours a month.

This past year, law student volunteers included: third-year students, **Garrett Conover**, and **Deb Chubb**; second-year students, **Ross Roloff**, **Chris Yugo**, and **Joanne Eldred**; and first-year student, **Kathy Jacobs** is currently in the training program.



*Members of the Vol. 26 Executive Board—Standing: Christina Lass, Tom Keith, Prof. Geri Yonover, Douglas Krause, Kathleen Campbell, Andrew Liverman, Mary Schwartz, Barb Fuller, Elizabeth Bezak, Jeffrey Clymer, Gina Bartoszek, David Read, Chris Lafuse. Other: Scott Kozlov, Jeff Stesiak, Amy Lawrence Mader, James Doyle.*

## THE BOARD OF VAL. U.L. REV. VOL. 26 CONCLUDES SUCCESSFUL YEAR

The Valparaiso Country Club provided the setting on April 11, 1992 for the banquet concluding a very successful year of the Executive Board of Volume 26 of *The Valparaiso University Law Review*. The Honorable Paul E. Plunkett, Judge, U.S. District Court, Northern District of Illinois, served as the featured speaker. With the assistance of Dean Gaffney, the Board inaugurated an annual symposium issue—this year's focused on the 200th Anniversary of the Bill of Rights.

If there's a topic you'd like to see addressed in *The Amicus* please write to us at:

Office of Publication  
*The Amicus*  
Wesemann Hall  
Valparaiso University  
Valparaiso, IN 46383



## FAREWELL TO THE CLASS OF 1992

First, let me say congratulations to you one and all. This is, to be sure, a moment of new beginnings. You should enjoy this day to the fullest, and reflect upon your achievements. You have worked many years for this, and your accomplishments are quite impressive.

Second, let me offer some modest advice. One is the last sentence of the prose poem *Desiderata*: "Strive to be happy." I am certain that you have seen this poem somewhere. It begins, "Go placidly amid the noise and the haste . . ." and then proceeds to tell you how to do just that. It is a collection of common sense rules of life and it is striking in its simplicity. It ends with a positive but realistic note: "With all its sham, drudgery and broken dreams, it is still a beautiful world. Be cheerful," it admonishes, "Strive to be happy."

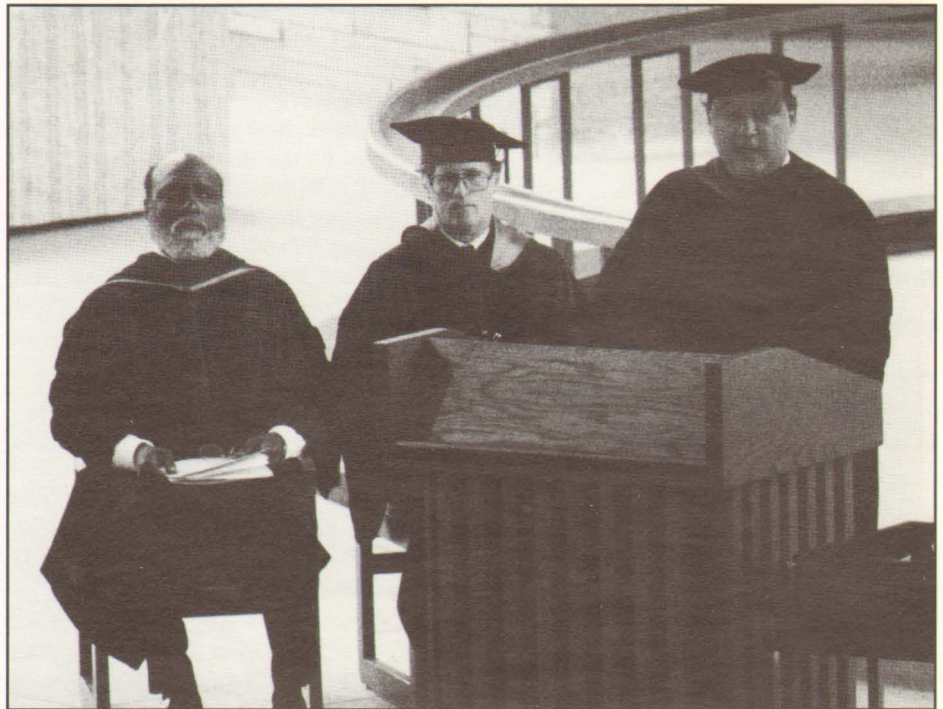
Although it has come to symbolize the ideals of the 1960s, the poem was actually written in the 1920s. And it was not simply found in a church, as suggested by many of the unauthorized poster reproductions. It was written by Max Ehrmann, a lawyer and sometimes poet from Terre Haute, Indiana. He first used the poem as part of a Christmas card for his friends in 1933, during the Depression.

After that, the poem seemed to take a life of its own. Friends were inspired by it, shared it with others, and they in turn did the same. It served as a source of inspiration for our troops in the Pacific in World War II, as well as for a generation of college students in the 1960s. By the mid 1970s, it was famous world-wide.

Max Ehrmann said he had written it (according to a 1977 *Washington Post* story) "to remind himself how he wanted to live his life." In his diary, he stated:

I should like, if I could,  
to leave a humble gift . . .  
a bit of chaste prose that had  
caught up some noble moods.

In my opinion, he succeeded.



*Professor Myers addresses the Graduates.*

But I relate this story not to tell you what rules of life you should live by. The words of a poem like *Desiderata* may be quite meaningful to you, or they may not. But I would encourage you to search for those great thoughts that will serve to give your life both balance and meaning. That is what Max Ehrmann, the lawyer from Terre Haute, did so eloquently. And it seems to me that is what he is urging others to do by ending the poem the way he did.

The second piece of advice I have is this, choose your heroes carefully. This notion comes from a dedication in a book by John Hart Ely, entitled *Democracy and Distrust*. He wrote: "For Earl Warren. You don't need many heroes if you choose carefully." I have always been impressed with this quote, in particular because of its frank recognition of the importance of having heroes. We shy away from the use of such words in our profession. We may think of heroes, but we talk, instead, of role models.

We do need heroes. Those individuals with integrity, honesty, humility, a healthy dose of common sense and, perhaps above all, compassion. Those who take pride in dealing with people in a fair manner. And those with the talent and the commitment to shape the law to serve the needs of our society. I have been fortunate here to have such a person serve as my mentor. And I am sure that most of you know who I am talking about: it's the other guy who teaches property, Professor Charles Gromley. Look to such people in the practice, and in your community, seek them out and ask for their guidance as you continue to grow and to learn. I am certain you will profit from it.

We have been so fortunate to have you as students, and to have gotten to know you as friends. Good luck in your new ventures. Take care. "Strive to be happy." And choose your heroes carefully.

David A. Myers  
Faculty Advisor



## From the Archives: George William Norris Class of 1882

*Editor's Note: With the Class of 1992, fifty percent of VUSL alumni have graduated since 1979. The "From the Archives" Alumni-in-Focus piece introduces an occasional series of articles intended to explore the heritage of VUSL through its alumni.*



Senator George William Norris  
Class of 1882

by Kathleen L. Jacob '94

Said Senator George William Norris in his autobiography, *Fighting Liberal*; "... there was on the campus of Valparaiso a spirit of democracy and of deep companionship; and I was not long in realizing that my associations there would have a profound influence on my life."

Born in Sandusky County, Ohio, to a poor family with ten surviving children, Norris learned early-on that he would have to work hard to succeed. Norris' education came in spurts, especially when he reached the college level. Norris had to teach and work in the fields shucking corn and chopping wood to earn money for his education. He attended school when he had the money, and returned to teach when it ran out. It took Norris six years to graduate from college. He earned a Bachelor of Science degree from

Valparaiso in 1880, which at the time was called Northern Indiana Normal School. In 1882 he received a Bachelor of Laws degree from Valparaiso's law school. He was admitted to the bar in 1883.

Norris did not begrudge the fact that gaining his education had been so difficult. "... only once was I able to continue through an entire year. Every other year I had to stop school in order to raise money so that at least half the time I was out in the field at work. The life that I had to lead would have been intolerable had it not been that nearly everyone else was in the same position. All the social activities were inexpensive." (*Fighting Liberal*, p. 37). Rather, Norris' hard-won early life and educational experience at Valparaiso prepared him for the fights he would encounter in his political career.

Upon graduation from Valparaiso, Norris moved to Nebraska, where he served three terms as a prosecuting attorney. He became the 14th District judge in 1885. In 1903 he was elected to the 58th Congress, and served in the House of Representatives for 10 years. Norris then moved to the Senate and served for 30 years with distinction.

Norris knew how to fight for what he believed would help people, and so his last years in the Senate saw him achieve several important goals. Senator Norris is known as the father of the Tennessee Valley Authority, an Act which allows for public ownership of hydroelectric power, and also created federal water power regulation. The Norris Dam, near Knoxville, Tennessee, is named in his honor. Norris also sponsored the formation of the Rural Electrification Administration.

Another important goal Senator Norris achieved was the passage of the LaGuardia Anti-Injunction Act, which outlawed "yellow dog" labor practices by which employers could force employees to sign contracts promising they would not join any labor organizations. One crowning aspect of Norris' career was the ratification of the 20th amendment to the Constitution in 1932. This amendment did away with the

"lame duck" Congress by requiring that newly elected Congressional members and Presidents would take office in January.

Norris was considered the supreme recalcitrant of the Republican party, although he was not always running on the Republican ticket. He was concerned about the evils of partisanship and thought it much more important that people listen to their conscience and think independently. Norris often took the unpopular position. He preferred political suicide to sacrificing his ideals. For example, he was one of only 6 Senators to vote against World War I. On the other hand, Norris strongly supported America's entry into World War II.

Norris retired from the Senate in 1943 after being talked into a final, but unsuccessful, bid for re-election. He finished his autobiography, *Fighting Liberal*, just eight weeks before his death at age 83, in McCook, Nebraska.

Norris was honored in 1961, the hundredth anniversary of his birth, with a commemorative stamp from the United States Post Office. The inscription on the stamp was taken from a statement made by Franklin Delano Roosevelt, who described Norris as, "the very perfect, gentle knight of American progressive ideals," whose life was an "able and heroic fight on behalf of the average citizen."

While studying at Valparaiso, Norris took the opportunity to involve himself in many activities. He was a member of the Claytonian Society and the Crescent Society; both debate teams. He was recognized as one of the best orators and debaters in the school, and for years after his graduation (one of 11 grads of the 4th annual graduation of the law school), Norris was the first choice for any type of speaking engagement. In 1943, Norris returned to Valparaiso as the commencement speaker, and received an honorary Doctor of Laws degree.

Perhaps one of the most interesting aspects of Norris' stay in Valparaiso is the formation of the "LUNS" with several of his close schoolmates. The group



promised never to reveal the name of the organization, although a rival faction in the Crescent literary society proposed that it stood for "Lunatics Under Norris." The LUNS determined that the college friendships that they had formed were important enough to maintain, and promised to meet once each year for as long as they lived. The group did meet every year for 25 consecutive years, and then failed to meet only under extreme circumstances. The exact content of these LUNS meetings is unknown, however, Norris considered the organization to be "one of the most

unique, one of the most useful—and one of the most enjoyable of any established among the college traditions in America" (*Fighting Liberal*, p. 45).

Norris has had eleven books and hundreds of news columns and magazine articles written about him. One commentator said that, "The life of Norris is the story of America at its best." For all of his achievements, however, interest in the man has been fading. Several people attribute this to the fact that Norris did not lead a flashy life; he did not get rich in the Senate, and he did

not create controversy in a way that makes the study of his political career especially interesting. Instead, Norris committed himself to doing the best he could for his constituents by his selfless devotion to hard work and integrity. While studying the life of this senator may not be imperative, his commitment to American politics, the common person, and to preservation of our natural resources should be recognized. Senator Norris is considered one of America's greatest statesmen, and he is certainly one of the most distinguished graduates of Valparaiso's law school.

## TWO VUSL ALUMNI INDUCTED INTO THE STEEL CITY HALL OF FAME

On June 3, 1992, Hilbert L. Bradley '50 was inducted into the Steel City Hall of Fame at the Genesis Center in Gary. Mr. Bradley was recognized for his dedication to human change and for his efforts in time, money, and energy in service to others through personal sacrifice. He attended Tennessee State University before earning the LL.B. and the J.D. degrees from Valparaiso University. After admission to the Indiana bar, he served as Gary City Court probation officer; Gary City Attorney; Lake County deputy prosecuting attorney; and lecturer for the Environmental Protection Agency.

Mr. Bradley is the founder and General Chair of the Indiana Coalition for Black Judicial Officials. He has spearheaded a statewide organizing and publicity campaign that has resulted in an increased number of referees and judges pro tem who are Black Americans; the appointment of Robert D. Rucker Jr. '77 to the Indiana Court of Appeals; and the election and appointment of other Black Americans to the judiciary at various levels. Mr. Bradley was the first African-American to graduate from VUSL.

Also inducted into the Steel City Hall of Fame was the late U.S. Congressman, Adam Benjamin, Jr. '66. The award, accepted by the Congressman's son, recognized Mr. Benjamin's many years of public service. He entered public service in 1963 as the Gary Zoning Administrator, and after a term as Executive Secretary to Gary Mayor A. Martin Katz, he ran and was elected to the Indiana State Legislature. He spent sixteen years as a state representative and as a state senator.

As chair of the House Appropriations Subcommittee on Transportation, he was able to aid Northwest Indiana

through projects such as improved Amtrak facilities, new South Shore Railroad commuter cars; and funding for access to the Indiana Dunes National Lakeshore. In 1976, he was elected to the U.S. House of Representatives where he worked tirelessly for his constituency. During that time, Mr. Benjamin spearheaded the establishment of the Calumet Forum, an organization designed to promote the economic resurgence and development of the region.

Created in 1984, The Steel City Hall of Fame purpose states: "Let us strive to build one society that is enriched because of its ethnic and racial diversity. Let us also believe that 'volunteerism' is America's largest and most productive human service activity. Volunteerism is built on the principles of care and concern about other human beings. To enrich the lives you touch is to enrich your own. This is the reason we have created 'The Steel City Hall of Fame: A Celebration of Excellence.'"



Mr. Hilbert Bradley '50



# CLASS ACTIONS

1925

**Frances Tilton Weaver** was recently declared an "Honorary Senior Rotarian" by the local Rotary Club. Frances graduated from Valparaiso H.S. in 1922. She was the only woman in her law school graduating class and the first woman to actively practice law in Valparaiso. She is reported to be the youngest woman to hold two licenses (Indiana & Illinois). In 1944, Frances was appointed Special Judge of the Porter Circuit Court. She was the first woman to act as special judge.

1926

**Willard R. Lowe**, retired in 1985, and is presently living at the Freedom Village Retirement Center in Bradenton, Fla., with his wife, Rosalie. They have three daughters, seven grandchildren, and five great grandchildren. Willard was born in Warren, Ind. but attended and graduated from Valparaiso High School. After graduation from law school, he was Bailiff for the Lake County Jail; practiced with a Gary law firm for a short period of time; owned and operated his own filling station in Gary for 32 years and also owned and operated a TV and appliance store in Gary, from 1945 until 1962. Willard was one of the original owners of The Big Wheel Restaurant in Valparaiso. Willard and Rosalie were in Indiana this 4th of July.



*Mr. and Mrs. Willard R. Lowe*

**Frank H. Sparber**, and his wife, Marian (celebrating their 66th wedding anniversary on July 25, 1992), reside in Miami, Fla. Judge Sparber practiced law in Gary, Ind., from 1927 to 1973. During his active career, Judge Sparber served as Deputy Prosecutor, Public Defender—Criminal Court, Judge Pro

Tem—all courts, and Judge of the Indiana Bureau of Motor Vehicles, Lake County Division. Additionally, he was President for the Gary Bar Association, Anselm Forum, Inc., and the B'nai B'rith Lodge and Vice President, Lifetime Director for the Temple Beth-El.

Judge Sparber and Marian have two children, Byron L. Sparber, an attorney in Miami, and Gloria Rosen, a Psychiatric Analyst in White Plains, New York. The Sparbers also have four grandchildren.



*Mr. and Mrs. Frank H. Sparber*

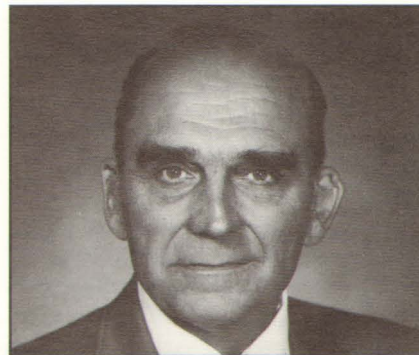
1949

**William Schroeder** received the Oregon State Bar President's Membership Service Award at the bar's annual meeting, October 2-5 in Seaside. Bill's noteworthy career of 40 years began in Vale, where he is recognized as one of the top public-land lawyers in the West. He is past president of the Malheur County Bar, vice-president of the Oregon State Bar and past-member of the Oregon State Bar's board of governors. In addition to his numerous appointments on bar and civic committees, Bill was appointed to head Oregon's Hanford Waste Board by Governor Neil Goldschmidt in 1988. Bill received his award at the state bar's annual awards luncheon on October 3, 1991.

**Hon. Bryce Billings**, retired Porter County superior court judge who was mayor of Valparaiso from 1968-72, recalled at the city's 125th anniversary celebration, "The hardest thing I ever did as mayor was talk to those kids (a group of dissident students after fire destroyed the VU administration building in May 1970), knowing very well, as I did, that one of them had started that fire."

1950

**Chief Judge Wesley R. Ratliff**, of the Indiana Court of Appeals, retired from the bench in November, ending his 10-year term. Judge Ratliff has been a member of the Court of Appeals since 1980 and has served as its chief judge since 1987. He previously was Henry Circuit Court judge for 17 years.



*Chief Judge Wesley R. Ratliff*

1953

**Richard W. Duesenberg**, senior vice president, general counsel and secretary of the Monsanto Company, St. Louis, Mo., has been elected to the Lutheran Brotherhood board of directors, effective September, 1992.

1957

**Roland A. Herrmann**, of the 19th Judicial Circuit, stepped down from the bench November 22, 1991. He was honored on his retirement in a ceremony conducted by the McHenry County Bar Association. The Judge was also inducted as an honorary member of Yale Law School. Upon return from his vacation, Judge Herrmann will join the north suburban law firm of Driscoll & Driscoll, located in Schaumburg, Ill.



*Roland A. Herrmann*



# CLASS ACTIONS

## 1966

**Fredrich H. Thomforde, Jr.**, is a partner with Morton, Thomforde & Morton in Knoxville, Tennessee.

## 1967

**Michael I. Swygert** was awarded The College of Law Outstanding Teacher Award in May, 1991, from Stetson University College of Law. His students describe him as brilliant, caring, a teacher who has "a passion for the law and a dedication to his students." Dean of the Law School Bruce Jacob calls Professor Swygert "a truly great teacher who has devoted his life to his students." The College of Law Outstanding Teacher Award was initiated in 1989. Professor Swygert is the third recipient of this award.

## 1968

**James Douglas**, Porter County Prosecutor, successfully tried two major murder cases during 1991, his first year as prosecutor.

The law firm of Weil, Gotshal & Manges announced on October 24, 1991, that **Raymond T. Nimmer** will become Of Counsel to the firm in its Houston, Texas office. Ray is a Professor of Law at the University of Houston Law Center where he holds the Leonard Childs Chair. He is a specialist in intellectual property and bankruptcy law. At Weil, Gotshal & Manges he will be part of the Technology and Proprietary Rights Group of the firm. Prof. Nimmer has lectured and published extensively on computer and commercial law, secured financing, trade secrecy, copyright and bankruptcy. Currently he chairs the ABA Committees on Data Communications Law and the Scope of the UCC. He also chairs the ABA-New York City Bar Task Force on International Technology Competitiveness; is the Program Chair of the Computer and Information Technology Law Institute, and the Vice Chairman of the Computer Law Section of the Texas State Bar Association. Ray is Reporter for the Study Committee on Software Licensing of the National Conference of Commissioners on Uniform State Laws and is on the Panel of Examiners of the Bankruptcy Specialization Exam of the State Bar of

Texas. Before assuming his current professorship he was a visiting professor of law at the Universities of Michigan (1987) and Texas at Austin (1985), Associate Dean of the University of Houston Law Center (1978-1985) and research attorney of the American Bar Foundation (1968-1975).

**Michael V. Riley** has become associated with the Valparaiso law firm of Hoepfner, Wagner & Evans. His concentration is in the areas of estate planning and real estate. He previously practiced law for 11 years and worked as a senior trust banker for 11 years.

## 1969

**Peter Glick** settled in Los Angeles, Calif., in 1972 after serving with the Prince of Peace Volunteers in Tokyo, Japan for 2½ years, then traveling to Europe and the USSR. Peter is a deputy district attorney for Los Angeles County. Peter and his wife Lynne, have two daughters, Heather, age 16, and Elizabeth, age 11.

## 1971

**Mayor David A. Butterfield** was recently awarded the highest recognition offered annually by Caring Place, the area's center for victims of domestic violence. The organization honored Mayor Butterfield as a recipient of their "Volunteer of the Year" award. The awards were presented at a banquet at the First United Methodist Church in Valparaiso.

**Jay Johnson** was recently promoted to Vice-president, Corporate Staff & General Litigation Counsel for Texas Instruments, Inc., in Dallas, TX.

**Patrick L. Kirk** has been elected Herkimer County Judge and Surrogate, and commenced his 10-year term on January 1, 1992. He is presently the Herkimer County District Attorney. Patrick resides in Herkimer with his wife, Cheryl, and sons, Kevin and Travis. Kevin is a second-year student at Duke University School of Medicine and Travis is a third-year student at the University of Buffalo.

**George J. Walsh**, has been named Co-Chairperson of the International Council of Shopping Centers Law Conference. George co-chaired the

highly-successful '91 conference, held in Scottsdale, Arizona, and will continue his duties as head of this fall's conference, scheduled to meet in Orlando, Florida. He also serves the I.C.S.C., which is an influential organization in the shopping center industry as a member of its Law Committee. George, who has published several articles since his days at V.U., also holds an LL.M. in Securities and Corporate Law from New York University. He is a partner in the Wall Street firm of Gould and Wilkie, where he heads the real estate section. George and his wife, Anita, have two sons, Geoff, age 16, and Matt, age 13.

## 1973

**Robert D. Truitt**, of Lyons and Truitt in Valparaiso, was elected Treasurer of The Porter County Bar Association for the year 1992.

## 1974

**Michael B. Haughee** is running against incumbent South County Commissioner, Brian Gesse, in the November, 1992 election, for Porter County, Ind.

**John F. Hoehner** has been appointed by President Bush, and approved by the Senate, as U.S. attorney for Northern Indiana. He had been acting attorney for the last 2½ years. He joined the federal prosecutors office in the early 1980s and rose to become chief of the criminal division in 1985 and deputy in 1987.

**James Jorgensen**, a partner in the Valparaiso law firm of Hoepfner, Wagner & Evans, is a member of the board of directors of the Greater Valparaiso Chamber of Commerce. An adjunct professor of law at VULS, he is also a director of the Northwest Indiana Forum, Associates in Downtown Valparaiso, Porter County Crime Stoppers and Porter County Building Trades, Inc. Jim was elected President of The Porter County Bar Association for the year 1992.

## 1975

**John Mark Bowman**, of Legal Assistance Foundation of Chicago, has been supervisor of litigation and



# CLASS ACTIONS

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legislation involving welfare and other public benefits, since 1985. John's wife, Robin, is a partner in a law firm she helped to found. John and Robin have a son, Sam, age 5.

**David DeBoer** has been named Valparaiso City Attorney. He also continues to practice law with the local firm of Blachly, Tabor, Bozik and Hartman.

**Dock McDowell**, was recently elected as a district representative on the ICLEF Board.

## 1976

**Ron Kuker**, of Hoeppner, Wagner & Evans in Valparaiso, was recently elected Treasurer of PACT (Prisoner and Community Together).

**Barbara Young**, of Hoeppner, Wagner & Evans, was recently elected Secretary of The Northwest Indiana Entrepreneurship Academy (NWIEA) for the year of 1992. The academy is one of six programs nationally, designed to instruct student members on the nuances of owning a business and the challenges it poses.

## 1977

**Linda L. Long** is pleased to announce the founding of *Strategies, Inc.*, in Valparaiso. With affiliated colleagues in Chicago and South Bend, the firm provides consulting and mediation services. Linda, president of the company, brings her law and business experience to strategic planning and other needs of business clients coping with change. Her professional services include confidential audits and investigations, planning processes, developing policies and procedures and mediating conflicts. Previous to establishing *Strategies, Inc.*, Linda was a consultant with two Chicago firms.

## 1978

**Mark P. Bickel** is a partner with Smith, Haughey, Rice & Roegge, P.C., in Traverse City, Michigan.

## 1979

**Bruce J. Van Heukelem** has become a partner in the firm of Hoogendoorn, Talbot, Davids, Godfrey & Milligan, in Chicago, Ill.

**Shelli (Wright) Johnson** and her husband **James Johnson '74** practiced law together in Portage, Ind. until James left the practice in 1989 to become probate commissioner. Shelli works in her law office when she is not busy with their children, Andrew, born in 1982, Scott, born in 1984, and Jenna, born in 1987.

## 1980

**Mark Ahlbrand** is supervisor of the Felony Trial Division in the State Attorney's Office in Fort Myers, Fla. He and wife Sharon have one son, Erik.

**Donald Cyze**, and his wife Elizabeth, are pleased to announce the birth of their son, David Alan, on December 6, 1990. Donald teaches taxation and business law at the Graham School of Management, Saint Xavier College, Chicago; is in-house legal counsel for L&J Engineering, Crestwood; and does tax work out of their home. Elizabeth is a CPA. Donald, Elizabeth, and David, reside in Oak Park, Ill.

## 1981

**Paul R. Chael** and G. Craig Vincent have formed the firm Chael, Vincent & Associates, of Valparaiso and Kouts, Ind. Also, Paul was elected Secretary for The Porter County Bar Association for the year 1992.

**Brian P. Curtis**, of Liquid Carbonic Industries Corporation, has been promoted to Assistant General Counsel. Brian, his wife Teresa, and their 3½ year old daughter, Katie, reside in Chicago, Ill.

## 1982

**Trina Gusenkamp Gould** received the Trial Lawyer of the Year award from the Indiana Trial Lawyers Association, on November 21, 1991.

**Roy Portenga** was recently appointed to the Board of Directors of Muskegon Community College Alumni Association and was their commencement speaker for 1992.

**Patricia Surovick** of Laguna, New Mexico, is currently working for Pueblo of Laguna, New Mexico, representing low income Native Americans in tribal, state and federal courts.

The Law Firm of Beckman, Lawson, Sandler, Snyder & Federoff, in Fort Wayne, Ind., is pleased to announce the partnership of **Brian J. T'Kindt**. Brian will continue to practice in the areas of family law and general litigation.

## 1983

**Christa (States) Laurin**, and her husband, Keith, are pleased to announce the birth of their daughter, Allison, born May 15, 1991, joining brother, Benjamin Andrew, age 4. Christa is a partner in the law firm of Kenefick, Gilmore, Bergerson & Laurin, in Michigan City, Ind.

**Laurie Pangle Watrol**, and her husband Robert, are pleased to announce the birth of their son, Michael Peter, on October 7, 1991. He has two sisters, Deana, age 19, who is a sophomore at Adrian College, and Stacy, age 13, who is an eighth grade student at All Saints School. Laurie was recently promoted to Associate Counsel of Fifth Third Bank of Northwestern Ohio, N.A. where she specializes in Commercial Loans, Real Estate, and Compliance. Bob is an Assistant Vice President of Mid-American National Bank and Trust, and councilman for the City of Rossford. Laurie remains active with the Lutheran church as Trustee and Treasurer of the Board of Trustees for Lutheran Campus Ministry at the University of Toledo Inc., as a mediation consultant for the Northwestern Ohio Synod, and as a Sunday School teacher and choir member at Bethel Lutheran Church.

## 1984

**Stephen Buyer** left the Attorney General's office in May of 1988 to open his own law practice in White County. In the midst of building a successful law practice, Steve's career was put on indefinite hold when he was called by the Army in the Fall of 1990 to serve in the Persian Gulf as legal counsel for the 22nd Theater Army in Operations Desert Shield & Desert Storm. Steve provided legal advice to combat service support commanders within the combat zone of operations in Northern Saudi Arabia, Southern Iraq and Kuwait. He also served as U.S. Armed Force's legal advisor at the Western Enemy Prisoner of War Camps, and he conducted war



# CLASS ACTIONS

crimes interrogations. For his service in the combat zone and work with refugees, Steve was awarded the Bronze Star and nominated for the Humanitarian Service Medal. Steve is preparing to run against incumbent Jim Jontz for the Republican Congressional Seat.

**Diane Quinn Erickson** and her husband are pleased to announce the birth of their daughter, Ashlyn Quinn, born March 16, 1991. Ashlyn has a big brother, Andrew Lee, born January 21, 1989.

**Thomas A. Massey** served as the ICLEF Faculty Chair for a six-hour divorce law seminar on October 11, 1991, in Evansville, Indiana. Tom has also been nominated as one of three candidates to serve the First District of the Indiana Judicial Nominating Commission.

**Patricia E. Primmer** has recently become a partner with the law firm of May, Oberfell & Lorber in South Bend, Ind. Patricia resides in South Bend with her husband and two children.

**Stacey Saunders** has been elected President of the Board of Directors for AWAIC—Abused Women's Aid in Crisis, a non-profit corporation which has a 52-bed shelter for battered women and their children. They also provide community education/outreach services and a program for men who batter. Stacey is an Investigator for the Human Rights Commission in Anchorage, Alaska.

**Deborah L. Szczepanski**, and husband Ryan, are pleased to announce the birth of their second child, Adam, on October 9, 1991.

**Randall Zromkoski**, a partner with Blachly, Tabor, Bozik & Hartman in Valparaiso, Ind., chairs the legislative committee of the Greater Valparaiso Chamber of Commerce. He serves on the Affordable Housing Task Force and is a member of the board of directors of Junior Achievement of Northwest Indiana. He is national chairman of the Social Security Committee of the Federal Bar Association.

## 1985

**Harry (Joe) Falk** and Ralph E. Bower have formed the Kentland firm, Bower & Falk.

**Christopher R. Fitzpatrick**, has become associated with the law firm of Wyatt, Tarrant & Combs, in Louisville, Kentucky, where he will be doing most of the Louisville firm's environmental law work. Chris is also teaching an environmental law course at the University of Louisville. Chris authored an article entitled, *Waste Management: Developing A Comprehensive System Through An Environmental Audit*, which appeared in the February, 1992 issue of *The Kentucky Manufacturer*. Chris and his wife reside in Louisville, Kentucky.

**Mary Ann Link**, previously an associate with Wright, Robinson, McCammon, Ostheimer and Tatum, has joined the Richmond, Virginia, law firm of Sands, Anderson, Marks and Miller as an associate. Mary Ann will practice in the areas of Workers Compensation, Professional Liability and Insurance Defense.

**Christopher A. McQuillan**, of Valparaiso, has been elected County GOP Chairman. He took the reins from County Councilman Michael Aylesworth who headed the party for nearly a decade. Chris will lead the party for the remaining 16 months of Aylesworth's term before party leaders face re-election in March, 1993. The Law Offices of Christopher A. McQuillan have relocated to 118 E. Lincolnway.

**Frank Parise**, and his wife Cheryl, are pleased to announce the birth of their son, Frank Lawrence, on March 6, 1992. Frank is the Judicial Court Commissioner for Kenosha, Wis.

Several attorneys were formally recognized by the ITLA Amicus Committee for their outstanding work in writing and time devoted to researching Amicus briefs. VULS recipients receiving certificates were: **Donald E. Schlyer, '85**, and **Aaron M. Black, '87**.

**Michael S. Talbett** has joined the Indianapolis firm of Bose McKinney & Evans, as an associate.

**Jeffrey L. Thode**, of Chesterton, Ind., is foregoing private practice to become the Porter County Court's second probate commissioner. His four-year term began January 2, 1992. Jeff will

hear civil and criminal cases, making recommendations to the higher bench. He will also fill in for the judges on a revolving basis.

## 1986

**Joseph Blumberg** has been installed as a new member of the board of the Urban League of Northwest Indiana.

**Steven C. Brown** has joined the Muncie firm Dennis, Wenger & Abrell as a partner, and the firm has changed its name to Helmerick Smith & Fountain.

**David L. Farnbauch** has become a partner in the Fort Wayne firm, Fagen, Whitmore, Myers, Richards and Farnbauch.

**Michael Feikes**, has been promoted to District Counsel in the State of Michigan, U.S. Customs Department.

**Thomas D. Guest**, practices law in Rochelle, Ill. Tom was married to Laurie J. Dannewitz on November 9, 1991. They reside in DeKalb, Ill.

**Nancy Hughes Milstone** has joined the South Bend firm of Butler, Simeri, Knopa & Laderer as an associate.

The law firm of DeHaan & Richter, P.C., Chicago, is pleased to announce that **Randolph E. Ruff** has become a principal of the firm.

**Richard J. Rupcich** has become a partner in the law firm of Blachly, Tabor, Bozik & Hartman, in Valparaiso.

**Mark W. Rutherford**, with Bamberger & Feibleman of Indianapolis, was recently elected Chair of the Criminal Justice Section of the Indiana State Bar Association for a one-year term.

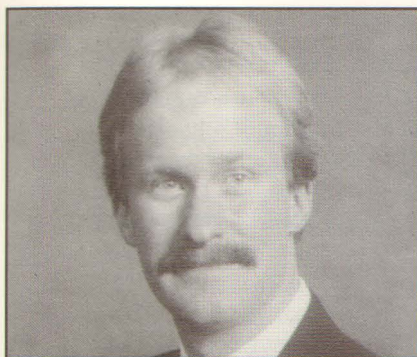
**Lance Ryskamp** was elected 3rd Ward Town Councilman for the Town of Highland this past November. He took the oath of office on January 1, 1992 and will serve a four-year term.

**Eve Sweeney**, and husband Mike, are pleased to announce the birth of their third child, John Michael, born April 7, 1992. He joins brother, Matthew, age 5, and sister Michelle, age 2.

On August 1, 1991, **Lisa Traylor-Wolfe** was sworn in as judge of the Fulton/Pulaski Joint County Court. As judge, Lisa divides her time between the Winamac and Rochester, Indiana courts. She succeeded John J.



# CLASS ACTIONS



Mark W. Rutherford

Delworth, Jr., who is a 1955 Valparaiso School of Law graduate.

## 1987

**Pamela J. Almus**, was promoted to vice-president and senior trust officer of First National Bank, in Valparaiso.

**Roberta Cioe Buoscio**, and her husband, Dr. Joseph R. Buoscio, are pleased to announce the birth of their son, Joseph Romeo Buoscio, Jr., on January 10, 1992.

## 1988

**Thomas Alevizos** was set to be selected by a district caucus to replace Senator Anita Bowser (D) in her old House seat.

**Cynthia Penn Amber**, has associated with the firm of Nietzer & Goeglein, in Fort Wayne, Ind.

**Robert E. Doelling, Jr.**, has joined the Fort Wayne, Ind. firm of Burt, Blee, Dixon & Sutton as an associate.

Effective October 7, 1991, **John H. Whitfield** established the law firm of John H. Whitfield, Attorney at Law. John practices in Biloxi, Miss. John traveled to Washington, D.C., December 6, to attend the Advisory Board Meeting of the Prentice Hall Law and Business Publication, Fair Housing—Fair Lending. John made presentations on the effects of the 1990 Home Mortgage Disclosure Act data recently released by the Federal Reserve Board as it relates to the racial disparities in mortgage lending rates and the rise of hate-related crimes affecting the 1968 Civil Rights Act concerning Fair Housing.

## 1989

**H. Jonathan Costas** has become associated with the law firm of Hoepfner, Wagner & Evans in Valparaiso.

**Scott E. Ellis** is an Environmental Management Consultant and Legal Analyst with Cadence Chemical Resources, Inc., in Michigan City, Ind. Scott and his wife, Chris, are pleased to announce the birth of their first child, Zachary Scott, born May 3, 1991.

**Janice Parker** is an Assistant Attorney General with the Illinois Attorney General, Chicago office. Janice works in the Consumer Protection Division.

**Sue Hartman** has completed her clerkship with the **Hon. Andrew P. Rodovich**, '73, in the Northern District of Indiana, and is now associated with the law firm of Bullaro, Carton & Stone, in Chicago, Illinois.

**Beth Henning Guria** recently accepted a position as the Lake Superior Project Attorney with the Great Lakes Natural Resource Center of the National Wildlife Federation in Ann Arbor, Mich. Additionally, Beth has been serving as an Adjunct Professor of Law at the Thomas M. Cooley Law School in Lansing teaching environmental law.

**Robert S. Kentner** has become associated with the law firm of Enslen, Enslen & Matthews in Hammond, Ind.

**Paul W. Ritsema** has become an associate with the Grand Rapids office of the law firm of Dykema Gossett. He will practice primarily in the area of litigation.

**Jeffrey Cox** received the LL.M. in environmental law from Pace U School of Law in New York and married Angela Rich at Wesleyan Church in Merrillville, Ind. They reside in San Diego, Calif.

## 1990

On October 28, 1991, **Steven Godfrey** began a Judicial Clerkship with the Allen County Superior Court in Fort Wayne, Ind. Steve lives in Michigan City, Ind.

**Brent Inabnit** was married to Lisa Struble on July 27, 1991. Brent is associated with the law firm of Mayer, Brown & Platt in Chicago, and Lisa is a kindergarten teacher. Brent and Lisa reside in Chicago, Ill.

**Kevin M. Boyle** has joined the Indianapolis firm of Locke Reynolds Boyd & Weisell as an associate.

**Janna Marcus** has associated with The Law Offices of Steven M. Cooper, Chartered, in Silver Spring, Maryland.

**Georgeanna Orlich-Nehrig** and husband **Brian Nehring '91**, are pleased to announce the birth of their daughter, Miranda Alicen, 7 lbs. 11.7 oz. Georgeanna is employed by USF & G Insurance Company. Brian has joined the firm of Rothberg, Gallmeyer, Fruechtenicht & Logan in Fort Wayne, Ind. They are currently residing in Fort Wayne, Ind.

**Margaret 'Peg' Ryan** was married to Dr. David Pilgrim in Gatlinburg, Tenn. on December 28, 1991. They recently moved to Grand Rapids, Mich. Peg has been listed in Who's Who Among American Law Students and Who's Who Among Rising Young Americans.

**Brian Stoddard**, President of the Valparaiso Jaycees, was awarded a plaque as the Number 2 Recruiter in the state of Indiana for his efforts in recruiting over 40 people into the Jaycee organization.

**Roger Weitgenant**, Valparaiso's Community Development Vice President, earned a first place plaque in the Speak-up Competition for the Valparaiso Jaycees.

## 1991

**Cynthia Oppliger Baker & Tim Baker '89** were married in June of 1991. Cynthia and Tim reside in Indianapolis, where Tim practices labor litigation with Barnes & Thornburg and Cynthia is a judicial clerk for the **Honorable Robert D. Rucker '77**, Indiana Court of Appeals.

The law firm of York & Miller, P.C., in Kalamazoo, Mich. is pleased to announce the association of **Jonathan Andrew Berkowitz** with the firm.

**James Clement Jr.** has become associated with the Valparaiso law firm of Hoepfner, Wagner & Evans practicing out of the Merrillville office.

**Laura B. Brown** is an associate with Hodges & Davis, PC, in Merrillville, Ind.

**John C. Drier** has joined the Fort Wayne office of Miller Carson & Boxberger.



**Lawrence Dujsik** has accepted an offer from the Cook County Office of the Public Guardian in Chicago, Ill., as an Assistant Public Guardian attorney representing abused and neglected children. Larry's experience with youth and families, mental health and police work will provide a great background for his new position.

**Robert and Melissa German** are pleased to announce the opening of German and German in Spring Lake, Mich.

**Daniel R. Goeglein** has become associated with the law firm of Lyons and Truitt in Valparaiso.

**Christina Gust Krueger** is pleased to announce the formation of a partnership for the general practice of law under the firm name of Heering & Krueger in Bethel, Conn. Christina was married to Kenneth A. Krueger on October 20, 1991.

**Paul Jesse** is a trial attorney with the Ohio Attorney General's Office, Environmental Enforcement Section. This office represents the Ohio EPA—both civil and criminal. Paul is initially doing administrative law hearings.

**Pamela Krause** recently joined the law offices of Wieser & Sterba, Highland, Ind., as an associate. Pam previously served as a law clerk with the firm.

**Paul Landskroener** and his wife are pleased to announce the birth of their son, Karl Neal, who joined sisters Emma, 14 and Greta, 11. In July, Paul and his family moved to Minneapolis so Paul could take a position as law clerk for Minnesota Supreme Court Associate Justice Rosalie Wahl. Paul previously worked for PACT (Prisoners and Community Together) for ten years.

**Christina Maas**, Deputy Prosecutor, has been named to Porter Superior Court, **Judge Mary Harper's '75** court. Judge Harper's court processes cases from Class D felonies down to infractions.

**Donna McCoy**, Deputy Prosecutor, has been named to Porter Superior Court, **Judge Mary Harper's '75** court. Donna formerly worked in

Superior Court **Judge Thomas Webber's '74** court.

**Jeffrey J. Mortier** has joined the Indianapolis firm of Locke, Reynolds Boyd & Weisell as an associate.

On September 12, 1991, **Paul W. Pasche** accepted an associate position with Presbrey & Amoni in Aurora, Ill. In addition, Paul co-wrote an article "Total Temporary Disability," which is published in Illinois Trial Lawyers Association Workers Compensation Handbook and he is working on an article for the Illinois Bar Journal to be published in winter 1991.

**Steven A. Pletcher** has joined the Indianapolis firm of Scopelitis, Garvin, Light & Hanson as an associate.

The law firm of Enslen, Enslen & Matthews is pleased to announce that **Robert G. Vann** has become associated with the firm.

**E. Angelo Spyrtatos** has become associated with the law firm of Momkus Ozog & McCluskey in Glen Ellyn, Ill.

**Ann K. Staley** has joined the Valparaiso law firm of Lyons and Truitt as an associate.

**Cynthia A. Tilden** has become associated with the law firm of Terry K. Hiestand in Chesterton, Ind.

**Chris Vlachos** has become associated with the firm of Vlachos and Vlachos, P.C. in Kalamazoo, Mich.

Wedding vows were exchanged by Sherry Lynn Kerr and **James Michael Zieba** during a ceremony at St. Bridget's Church in Hobart in December. The couple will reside in Indianapolis.

## IN MEMORIAM

The entire Valparaiso University School of Law Community extends its sympathy to the family and friends of the following deceased alumni:

**George Simon '27**  
December 24, 1991

**Harold H. Heins '36**  
January 5, 1991

**Harold J. Helbling '47**  
October 2, 1991

**Chris J. Pappas '49**  
March 25, 1992

**John Morgavan '54**  
December 3, 1991

**George W. Pillers '65**  
October 21, 1991



The *AMICUS* invites and encourages Alumni to write to the School of Law with news of interest for publication in the **Alumni News** section of the magazine. Items such as a change in address or career; status within your firm; births; marriages; membership, selection or appointment to positions within professional organizations/associations are a few examples of the types of information we like to receive and publish. Copies of articles and photographs are welcome.

We also want to give you ample opportunity to order a copy of the latest edition (1991) of the **VUSL ALUMNI DIRECTORY**. Copies are still available for \$25.00 each.

The "post cards" on the back of the *AMICUS* are designed for your use for any of these items. Please complete the appropriate card(s) and send them in!

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Address Correction Requested

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News or Comments: (Attach additional sheets, if needed, or copies of articles.  
Photos are welcome!)

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